

EXHIBIT E

1
2 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF VIRGINIA
3 RICHMOND DIVISION
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4
5 ePLUS, INC.,
5

6 Plaintiff;
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7 v.
8

CIVIL ACTION
3:05CV281

8 SAP AMERICA, INC., et al.
9

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10 Defendants.
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11 JURY TRIAL - VOLUME XI
12

12 April 13, 2006
13 Richmond, Virginia
13 9:30 a.m.
14

14
15 BEFORE: HONORABLE JAMES R. SPENCER
15 United States District Judge
16 AND A JURY
16

17 APPEARANCES: JENNIFER A. ALBERT, ESQ.
17 THOMAS J. CAWLEY, ESQ.
18 MAYA M. ECKSTEIN, ESQ.
18 SCOTT L. ROBERTSON, ESQ.
19

19 Counsel for Plaintiff;
20

20 LLOYD R. DAY, JR., ESQ.
21 ROBERT GALVIN, ESQ.
21 DABNEY J. CARR, IV, ESQ.
22 ROBERT A. ANGLE, ESQ.
22

23 Counsel for Defendants.
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24
25 JEFFREY B. KULL
OFFICIAL COURT REPORTER

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1 MR. DAY: I suggest we do that. I simply
2 want to keep this case moving forward.

3 THE COURT: I have no problem with that.

4 MR. DAY: Now there was also an inspection
5 yesterday of the second demo system, and that is the
6 next witness in order. I expect if there's any concern
7 with that demo, we will hear about it right now so I
8 can look into that as well. So I'm not going to hear
9 about it as the witness is called to the stand.

10 THE COURT: That's fair.

11 MS. ECKSTEIN: There is one issue with the
12 Gateway demo. It is our understanding there has been a
13 catalog added to that as well. I think, if my
14 recollection is right, it is called Builders Supply.
15 There was a catalog added to what we originally
16 received in discovery.

17 THE COURT: There you go. You can take a
18 look and see what there is to it. I'll leave it open.
19 Call the witness.

20 All right. Bring them in.

21 (The jury entered the courtroom.)

22 THE COURT: All right. Call your witness.

23 MR. DAY: SAP calls Laurene Fielder.

24 LAURENE FIELDER,
25 called as a witness by and on behalf of the defendants,

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1 A Well, as a founder I have had a lot of
2 different responsibilities, and I've probably done
3 pretty much every job in the place, maybe with a few
4 exceptions. But, my primary responsibility in the
5 company is in the area of everything that happens after
6 the sale. That would involve customer implementation,
7 that involves training, customer support. But, I do
8 get involved in sales and pre-sales support as well.

9 Q How did PurchasingNet get started?

10 A Basically, in the early '80s, I was working
11 for General Electric Information Services Company. And
12 my partner, Tim McEneaney, had his own software
13 consulting company. He was helping companies implement
14 large mainframe systems. They were called Material
15 Requirements Planning System, or you might be familiar
16 with the term MRP software. So Tim was consulting and
17 I was selling software for General Electric. And we
18 had a mutual customer that introduced us. And that
19 mutual customer happened to have one of the first PCs
20 that IBM made. We all sort of fell in love with the
21 PC, and Tim and I saw an opportunity at that time to
22 start a software company. And we did. And decided to
23 focus on purchasing software.

24 Q What is your educational background?

25 A My educational background is, I have a

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1 having been first duly sworn by the Clerk, was examined
2 and testified as follows:

3 THE COURT: Mr. Day.

4 MR. DAY: Thank you, Your Honor.

5 DIRECT EXAMINATION

6 BY MR. DAY:

7 Q Good afternoon, Ms. Fielder.

8 A Good afternoon.

9 Q Would you please introduce yourself to the
10 jury?

11 A Good afternoon. My name is Laurene Fielder.

12 Q And where do you live?

13 A I live in Colesville, New Jersey.

14 Q Where do you work?

15 A I work for PurchasingNet, Inc.

16 Q And what does PurchasingNet do?

17 A PurchasingNet is a publisher of software
18 that's called e-Procurement and also is a publisher in
19 the eTables marketplace.

20 Q How long have you worked with PurchasingNet?

21 A I'm one of the founders of the company. And
22 I have been working for the company consistently for 23
23 years.

24 Q What have been your responsibilities at
25 PurchasingNet during that time?

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1 bachelor of arts in marketing communications from a
2 college in Michigan called Aquinas College.

3 Q Now, your company is called PurchasingNet
4 today. Was it always called PurchasingNet?

5 A No. We actually founded the company in 1983
6 and the company was called American Tech. We later
7 changed the name to PurchasingNet. We did that in the
8 year 2000 because we were doing two things, trying to
9 take advantage of the .net or the net technology move
10 at that particular point in time. And also because we
11 were expanding our company globally. We were opening
12 an office in Singapore and we were advised that having
13 a little bit global name would be a good thing for us.

14 Q Other than the name change, is the business
15 the same? Did the business remain the same over that
16 entire --

17 A Yes. Our business has remained the same.

18 Q What was the first product developed and sold
19 by American Tech?

20 A When we founded the company we started
21 building one product, a module, that was to help people
22 in purchasing. And the product was called P.O. WRITER
23 PLUS and it was for purchasing agents to really make
24 their life easier.

25 Q What was the purpose of P.O. WRITER?

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1 A The purpose of the product itself was
2 basically to help people automate the generation of
3 purchase orders. And, as a product that created
4 purchase orders, the system had a database which would
5 allow them to create subsequent POs because a lot of
6 what was going on in purchasing was repetitive. So we
7 made the process of placing orders easier. Because
8 data was being stored in the database, it was easy for
9 people to recover it. Our first really basic reports
10 were so that people could use it so they could find out
11 who they were buying certain items from and what they
12 were paying.

13 Q And when was P.O. WRITER first sold in the
14 United States?

15 A We started the company in '83, as I
16 mentioned. Started to work on the product right away.
17 And we had our first module available for sale in the
18 summer of 1984.

19 Q How was the product received in the market?

20 A We did really well. The product got a lot of
21 attention because it was something new. There aren't a
22 lot of people doing PC based purchasing. They were
23 using mainframes, of course. But, it was affordable
24 and something that people could install and implement
25 themselves. And, as a result, it got a lot of

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1 were selling a couple of different types of services.
2 They had acquired a company that manufactured MRP
3 software. So I personally was selling their MRP
4 product at that time. And Tim was personally
5 consulting in that marketplace, helping people that
6 bought these systems implement the software.

7 So during the course of our employment we
8 were involved with people in the purchasing department,
9 in production planning, in inventory control. So we
10 both had experience with the challenges that people
11 faced in those areas.

12 Q Now, based on your experience, how was
13 purchasing being managed in the early 1980s?

14 A During that period of time, purchasing was
15 pretty much neglected in our experience. A lot of the
16 companies' money that was being invested in computer
17 software was being invested in either these large MRP
18 systems, a lot of work was going on in the finance area
19 giving people in the accounting department the kind of
20 information they needed to run their business. But,
21 what we saw pretty consistently in the purchasing
22 department, if you were to walk in, were people that
23 were literally swamped with paperwork. And that's part
24 of what we used as our advertising for the first
25 several years we ran our business, we would run ads

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1 attention.

2 Q Does PurchasingNet still sell P.O. WRITER?

3 A We don't sell P.O. WRITER any longer. We've
4 replaced that product line with newer technology. Our
5 new product is called PurchaseNet, as you might expect.
6 And there's PurchaseNet and e-Procurement and
7 PurchasingNet payable so we have a broader product
8 suite.

9 Q Very generally, how does your current
10 products different from the original PO Writer?

11 A The technology is different. Certainly we
12 are using the new browser technologies, using better
13 database technology, able to deliver faster solutions.
14 But, fundamentally, we do a lot of what we used to do,
15 which is help people create orders, process receipt
16 transactions, manage inventory control, do requisition,
17 do basic functions centered around the area of
18 materials management.

19 Q Before you created PO Writer, did you have
20 any experience with the purchasing operations of
21 different businesses or organizations?

22 A Both my partner, Tim, and myself, had
23 experience. As I mentioned, I was working for General
24 Electric. And in the particular division that I was
25 in, which was called Information Services Company, we

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1 that say are you swamped with paperwork, unload it on
2 P.O. WRITER.

3 Again, there were manuals everywhere, there
4 were stacks of paper, there were lots of filing
5 cabinets, and this was pretty consistent. Not 100
6 percent, some were a little better organized. But, by
7 and large, most purchasing departments were having a
8 hard time keeping up because they were just getting
9 inundated with paper requests and paper catalogs and
10 that type of thing.

11 Q And why did you decide to develop P.O.
12 WRITER?

13 A We decided to develop it to really help these
14 people. I mentioned, you know, a way for them to get
15 out from underneath the pager. So we decided if we
16 could help them streamline the process, it would
17 provide a lot of benefits to our customers. And our
18 customers were really the companies buying our
19 products.

20 So the companies wanted to do a few things.
21 They wanted those people that were shuffling paper
22 every day to be able to do their jobs easier. The way
23 we helped them do that is get that paper in the
24 computer. They started to streamline the process, they
25 started to get information that they could use to make

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1 decisions, because that was a big challenge they faced,
2 was what am I buying and whom am I buying it from. If
3 you spend your whole day shoveling paper, it is not
4 easy for you to figure out how to get your hands on
5 that information. It wasn't that readily available.

6 So we helped them get information so they
7 could use that data to determine where they were going
8 to source and select suppliers and get those suppliers
9 on contracts so the company could save money.

10 Q And what types of businesses comprised your
11 customer base?

12 A In the very beginning when we started to sell
13 our products, because our background was in
14 manufacturing, we naturally were more comfortable in
15 that marketplace. So we did start to selling to
16 manufacturing people. We sold to people like Standard
17 Oil and TRW and Mobile Oil. So big companies were
18 buying our product, even though it was a small product,
19 if you will.

20 Then as time went on, we started to sell more
21 into the services marketplace. And when I say
22 services, I'm referring to anybody who is
23 non-manufacturing, so that might include law firms, we
24 had a lot of law firms that used our products, it was
25 banks, credit unions, financial Institutions, we had

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1 them to be professional buyers, the kind of people to
2 buy our system wanted their purchasing department to be
3 the professional buyers because that's what they were
4 hired to do. Basically, the majority did not, a
5 handful might have.

6 Q How did PurchasingNet help to meet meet the
7 needs of your customers?

8 A We had a couple of module system I mentioned.
9 We helped them meet their needs by offering, again, a
10 purchasing module, receiving inventory control and
11 requisitioning. So the requisitioning people were
12 allowed to log into the system and request items and
13 services, and those would be forwarded to the
14 purchasing department who we serviced as the group that
15 was there to meet the needs of the users in their
16 community.

17 Q Over time did your software evolve and
18 change?

19 A Our software evolved a lot. As I mentioned,
20 we started with one module. And as we grew our
21 business, we really had two goals. One goal was to
22 create new modules that we could go back to our old
23 customers and sell them to so we could keep growing our
24 business. Then we also got a need to improve the
25 product and add features and functions so we stayed

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1 some rehabilitation centers, AAA, a lot of insurance
2 companies. So our product was doing very well. We had
3 sold, before we switched to the new product line, we
4 sold over 1400 companies our product.

5 Q Were your customers interested in empowering
6 their requisitioners to make their own sourcing
7 decisions for the goods and services they procured on
8 behalf of the company?

9 A Some were and some weren't. As we developed
10 our product line, we went from manufacturing, as I
11 mentioned, to help with the receiving department. And
12 people said, well, help us with inventory, and we
13 extended to the requisitioning area. And when you
14 looked at our customer base, there were really two
15 groups that were in that. There were more technical
16 people like people that were involved in science and
17 research and development and then there were kind of
18 other people.

19 Mostly our customers were not interested in
20 having the requisitioner make the sourcing decision.
21 Most of our customers were interested in letting those
22 people do the job they were hired to do. And that
23 meant making it easy for them to get things they needed
24 to do their job, but it didn't mean making those people
25 professional buyers. On the contrary, they didn't want

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1 competitive in the marketplace. We were really a small
2 company doing a balancing act trying to add new modules
3 and enhance what we had. So that was, and still is
4 today, just something that is very important to the
5 health of our software company and any software
6 business.

7 Q Where did you get ideas to improve your
8 product?

9 A We really had a couple of different ways that
10 we got ideas. The three primary ways were, one was to
11 talk with the customers. And when I say talk to them,
12 I mean as we're dealing with them in the sales
13 situation, they would be saying well, do you do this,
14 do you do that. When I say talk to them, I mean
15 conduct training. I personally conducted training all
16 around the country. I talked to a lot of people. We
17 conducted breakfast seminars where we talked to people
18 and we learned a lot that way. So we got some of our
19 own ideas just by being out in the market.

20 But, we also sponsored two formal ways that
21 our customers could share their ideas with us. The
22 very first thing we did was implement a Product
23 Improvement Program, we call it the PIP movement, and
24 the idea behind that was to give our customers a method
25 to communicate with us on how to build a better

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1 mousetrap. If they are using their product and saying,
 2 gee, this doesn't feel comfortable or I think this is
 3 too many keystrokes, they could write it down and at
 4 the time either mail it in or fax it in. That's how we
 5 started that program. Now that's, of course, evolved
 6 today into systems to do that. That was the start.
 7 The other way we worked with our customers to get
 8 information on how to things better is that we
 9 implemented a client forum. And in the beginning we
 10 would do a couple a year. Go to the east coast, west
 11 coast and midwest and meet with our customers. And the
 12 primary event to this day is what's called the client
 13 brainstorming session. And in that session our
 14 customers come in and they brainstorm and then they
 15 come back to us and give us a list of ideas on what
 16 they think we should be looking at or considering for
 17 future versions. So we had a lot of input, if you
 18 will, on how to build a better product over time.

19 Q In addition to your clients, did you ever get
 20 any ideas from your competitors by watching what they
 21 were doing?

22 A Absolutely. Sure. We attended a trade show
 23 every year, pretty -- well, very religiously. And I
 24 think the first trade show the National Association of
 25 Purchasing Management ever had was in 1986. And we

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1 attended the second one that they had where they would
 2 allow suppliers to come in and exhibit. And I recall
 3 that because I was pregnant at the time with my only
 4 child, and I had no idea my feet could get that big by
 5 standing them, and they got really big. So I know for
 6 a fact in '87 we started to learn from our competitors
 7 there. And we have attended that show ever since. It
 8 is real a very -- because you do learn a about your
 9 competition. It is a chance for us to demonstrate to a
 10 couple of thousand people what we are doing in the
 11 marketplace as well and to build some excitement for
 12 our product.

13 Q How did your product line evolve over time?

14 A As I mentioned, we started with the modules
 15 and we built on. And then as we evolved the modules,
 16 purchasing, receiving, inventory control, requisition,
 17 we added stock requisitions, accounts payable,
 18 interface fax interface. So we built a product module
 19 and continued to build it up with features and function
 20 to be competitive in the market and to keep up with the
 21 competition to address the needs of our customers.

22 Q You mentioned the requisition module. Is
 23 that an add-on at some point where you added that
 24 feature?

25 A That's right. We added that feature.

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1 Q Did your customers demand that functionality?

2 Were your customers looking for that functionality?

3 A I think it was two-fold. I can't tell you
 4 exactly what the spark was. It could have been some
 5 combination of a customer saying I want, and us going
 6 to trade shows and seeing what's going on and
 7 determining we better get moving. But, for whatever it
 8 was, we did respond and create a, we called it at the
 9 time remote requisitioning, was our first introduction
 10 of requisitioning.

11 Q In the context of requisitioning, and the
 12 employees who would be doing the requisitioning, did
 13 you find that your customers wanted to give their
 14 employees the ability to choose the vendors or the
 15 manufacturers from which the goods or services they
 16 would requisition would be purchased?

17 A Well, again, that was the driver, some people
 18 were more technical in R & D indicated they might want
 19 to provide more detailed information to them. But,
 20 generally speaking, our customers wanted to allow them
 21 choice. Because a lot of companies that are
 22 implementing, or at the time implementing our product,
 23 were changing. And whenever you change things on
 24 people, it is often met with resistance.

25 So when we were teaching people how to use

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1 our product and teaching them how to implement it, one
 2 of the things I would always tell people is talk to
 3 your users. Find out how they buy things, look at the
 4 stickies on their walls and find out how they think
 5 about things. And, as you're putting data into your
 6 database, make sure you consider how they look things
 7 up. So if they look things up by commodity code, make
 8 sure you organize it intelligently and make it easy for
 9 them to use. If they look it up by items, organize
 10 your data that way. The key was to make the user
 11 experience very comfortable.

12 Q And the user experience you're talking about
 13 is the user of the software?

14 A User of the requisitioning software.

15 Q Did this affect the way you designed your
 16 products?

17 A Absolutely. Absolutely.

18 Q How?

19 A Again, we wanted to provide something to the
 20 market that was salable. And we had a manufacturer
 21 marketplace and we had a service marketplace. And the
 22 people in those two different market segments could
 23 have very different mind sets. And because we wanted
 24 to grow our business, and we didn't want to seem that
 25 we were focused too much in one area versus another,

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1 the way that we decided to address this is we decided
2 to create what we called user-defined fields. It is
3 not like this is a unique invention, a lot of companies
4 do this. That was something we put into our product.
5 We built in fields that customers could label and
6 define for use that was particular to their business.

7 Q Why did you do that?

8 A Just to be more competitive and to offer
9 users tremendous flexibility, give them a way to
10 implement the system any way they thought would be
11 appropriate.

12 Q Could you explain, please, how that would
13 give the user flexibility, how that gave your customers
14 flexibility?

15 A We had, for example, 12 user defined fields
16 in our system. When we developed a major release that
17 announced there was to be a Version A, which was a big
18 release for our company, those 12 fields existed in
19 various parts of our product. And specific to the item
20 master, which would affect the whole user community,
21 there were four user defined fields that were part of
22 the master.

23 So those fields could be used for various
24 things. For example, if I was a manufacturer of parts,
25 one of our customers was Black & Decker, the people

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1 WRITER did you develop and sell?

2 A The P.O. WRITER product line was really
3 comprised of two different time lines, if you will.
4 When computers first came out, there was an operating
5 system called DOS. And there were 12 versions on our
6 P.O. WRITER Plus, a DOS version. Then as the
7 technology improved, and Microsoft released the Windows
8 operating environment, which is what most people use,
9 where you can use the mouse, we did develop a P.O.
10 WRITER PLUS for Windows version. We had four versions
11 of that product. And then we switched our technology
12 and changed the product line and rebuilt the whole
13 product line.

14 Q Did you help to prepare a time line to
15 illustrate the different versions of P.O. WRITER that
16 you developed?

17 A Yes. Yes, I did.

18 MR. DAY: Could we have Fielder 2?
19 BY MR. DAY:

20 Q It is behind you and on the screen in front
21 of you as well. What does this illustrate?

22 A This is information that I provided to show
23 how we released our products. As I mentioned earlier,
24 in 1983 we started our company. In 1984 version one
25 became available. It was our company's policy to

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1 that make the hand tools, they might want to use those
2 fields to say manufacturer number. Because that might
3 be something that was important to their engineers.

4 On the other hand, you might have a services
5 company such as a bank or an insurance company, and
6 they might want to use those user-defined fields that
7 are associated with an item to say something like a
8 preferred supplier or an alternate supplier. Just
9 provide general information to the user. So they were
10 reference fields that the customer could use for any
11 purpose that was appropriate.

12 Q So this gave your customers flexibility to
13 tailor and configure the system the way that best met
14 their particular need?

15 A Absolutely. That's exactly right.

16 Q Did you specify for your customers in the way
17 you designed your product, did you configure and design
18 it so you would specify for your customers who within
19 the purchasing process would make what decisions?

20 A Absolutely not. No. Our customers didn't
21 want us to specify anything or dictate anything. What
22 they wanted from us was a product with competitive
23 features that was flexible and reliable. And that's
24 what we tried to deliver.

25 Q Over time how many different versions of P.O.

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1 release one major release per year. We've done that
2 consistently through the history of our company.

3 So what you are looking at is the time line
4 for the product that I refer to, the early product,
5 called P.O. WRITER for DOS. And you can see then that
6 each year we had a major release. This was important
7 to our customers for many reasons.

8 Q Why did you have a regular release? Why did
9 you do that?

10 A Well, there were a few. The main driving
11 business reason is that we when we sold our software.
12 we also sold a support program. And in a company, any
13 software company, support is important, or your
14 maintenance revenue, in a small company it's really
15 what buffers you through the good times and the bad
16 times. We tried to sell to everybody that bought our
17 software a maintenance contract. And part of the
18 benefit of being in that maintenance program was that
19 you would get major features and functions. So it
20 wasn't just about building features into the product,
21 too. The other benefit to the customer is as
22 technology was changing, it was changing very rapidly
23 during this period of time, computers were changing,
24 computers were improving, processors were getting
25 faster, the technology changed. We kept our product

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1 up-to-date so that that people knew if they stayed in
2 our support program, and as they improved their
3 technology, that we would be, they would be compatible
4 and able to upgrade easily. So that was that. And
5 also just to be competitive we need to make sure our
6 product was always improving and keep people in this
7 program.

8 Q Now there are ten versions of your product,
9 Version 1.0 down to Version 10.0, up to 1993. We are
10 going to talk about a number of these versions. But,
11 in general, just moving from Version 1.0 to Version
12 10.0, did the features and functions for each of these
13 versions evolve and expand over time?

14 A Yes.

15 Q Did the target customer base for the set of
16 features and functions that you developed this software
17 for expand over time?

18 A It did. As I mentioned, we started because
19 we were comfortable with the manufacturer and sold to a
20 lot of manufacturing companies. But, as our product
21 expanded, when we put in more capable services that
22 companies would want, like the ability to interface
23 with the text editor and a word processor, to put in a
24 lot of free form comments. for example, that was the
25 kind of functionality that was getting built into the

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1 DOS-based product, purchasing module only, and it
2 allowed people to put data in what we call master
3 files. So there was an item master that allowed them
4 to put in things they might buy. It could be products
5 and suppliers services. That was a supplier which were
6 vendors or people they did business with. Okay. Item
7 master file, there was a supplier master, ship-to-file,
8 bill-to-file, buying company, buyer, authorization,
9 that type of thing.

10 So the concept was, again, you put the basic
11 information into the database that you were going to
12 use on a repetitive basis. And the next thing they
13 could do, once they got that basic information, is they
14 could create purchase orders and requests for
15 quotations which were basic business functions in the
16 purchasing department and they could run a couple of
17 reports. I think in the first version there was just a
18 handful of reports that would allow them to determine
19 by period of time dollars spent by supplier, it would
20 tell them what kind of items they were buying, how much
21 money they were spending for those items during any
22 periods of time. So basic functionality for
23 purchasing.

24 Q So was the Version 1.0 product targeted
25 primarily to purchasing department employees?

Page 2021

1 product during this period of time.

2 Q So the types of customers would expand?

3 A Yes. Sure.

4 Q And within the customer's business, did the
5 type of employees who would use your software, did you
6 reach to more employees in a company to use your
7 software?

8 A We did that.

9 Q How did you do that just in general?

10 A Just in general, as the product became
11 better, and PCs were no longer seen as just little toys
12 that were a department, there was something that came
13 along called the Find Server. It doesn't sound like
14 a big deal now, at the time it was a big deal where you
15 could put in a big computer and hook up your personal
16 computers to it. So the whole technology was growing
17 and expanding. It was allowing our customers to move
18 our product out of just being a departmental solution
19 out to the hands of their users. When I define users,
20 I am talking about requisitioners or people that need
21 things in an organization.

22 Q So let's begin with Version 1.0. Just focus
23 on that one for a moment. In general, what were the
24 features and functions of Version 1.0?

25 A Again, this was pretty simple. It was a

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1 A It was. It was sold to them. But, again, it
2 was really, the benefit was to the corporation.
3 Because it was helping the company get organized and
4 get their data collected so they could negotiate which
5 was really often the drive for buying the product.

6 Q Okay. Could you explain what you mean by
7 that?

8 A What I mean by -- because I mentioned
9 earlier, people had just heaps of paperwork in the
10 purchasing department. And they couldn't get their
11 hands on information easily. When they bought our
12 software, and they were able to do their purchase
13 orders in the system, that data was being stored in the
14 database so they could run these reports. The benefit
15 of running these reports is that people that do
16 purchasing for a living need this information to
17 determine what they are buying and who they are buying
18 it from.

19 Once they get this information, they can
20 start to use it to negotiate. So they can look and see
21 okay, I've bought, you know, perhaps let's say office
22 supplies, I bought office supplies from five different
23 suppliers and different people. If I can see that, I
24 can figure out who I'm buying from, what I'm buying.
25 and then I can determine whether or not I can go out

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1 for bid and perhaps consolidate that spend, for
2 example, on to a contract with one or two people so I
3 can get better pricing. That's really the goal of a
4 professional procurement department is to leverage the
5 company's spend and to manage it more carefully.
6 That's what we helped people do.

7 Q So the Version 1.0 product was targeted to
8 the purchasing department?

9 A (Witness nodding.)

10 Q Did there ever come a time when your product
11 expanded to include functionality that was targeted to
12 non-purchasing employees?

13 A It did. Again, when we started the company,
14 we built the first module, we literally, I can remember
15 being on the phone and people saying this is good, but
16 I would like to be able to process receipts. So I have
17 done my PO. So these people in the receiving area, we
18 extended the product to that group into the inventory
19 area because that was the next request they made. And
20 that came along around Version 3.0. And then we swung
21 around and started to address the needs of the
22 requisitioning community around, well, it was in
23 Version 6.0 is when we released our first
24 requisitioning module.

25 Q When was Version 6.0 first sold in the United

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1 purchasing so purchasing could fulfill the request or
2 perhaps look and see if they had it in inventory or
3 somehow take care of the user's needs.

4 Q Did users require special training to use
5 this remote requisitioning?

6 A No, we didn't. When we would sell the
7 product, we would sell the products with a self-paced
8 tutorial. They could come to training if they wanted.
9 But, it was very common for our customers to use the
10 tutorial and sit down and go through the tutorial,
11 which they could do at their own pace, and begin to use
12 the products.

13 Q So what could an untrained user of the remote
14 requisitioning module do with it?

15 A An untrained user or one that sat down with
16 the tutorial?

17 Q Yes. An employee who was a purchasing
18 employee and trained in purchasing.

19 A Okay. Just the features that I described a
20 second ago. They could log in, and they could say I
21 would like to create a requisition, and they could do
22 that by either saying yes, I want to see all the items
23 in my catalog or say give me items that start with a
24 certain item number or search by description or they
25 could search by commodity code. And then system would

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1 States?

2 A It was sold in, started to sell in the spring
3 and summer of 1989.

4 Q And what new features did Version 6.0 add to
5 P.O. WRITER?

6 A The main feature -- there was some small
7 features. But, the main thing we were doing with the
8 release of Version 6.0 was what we called remote
9 requisitioning. And what that would allow a customer
10 that bought that product to do is to have their
11 centralized purchasing department continue to do
12 business, as I've discussed to this point, but it
13 allowed them, if they had outlying locations like
14 branches or manufacturing facilities or warehouses or
15 whatever, they could put a stand-alone PC with a modem
16 out in these various locations, the users could
17 download data into what was called a catalog file on
18 each stand-alone computer, and they could log in and
19 they could create a requisition. And they could create
20 that requisition very easily by selecting either an
21 item or looking for an item in their file using a
22 description sort or a commodity sort.

23 So this was the first step we made into this
24 market where we were letting users create requests that
25 could then be sent in this case via modem over to

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1 display a list of items and they could select the items
2 they wanted to include on the request by simply keying
3 in a quantity next to those items and they could save
4 it. And that was the functionality that was included
5 in that version.

6 Q Okay. That was Version 6.0 which you
7 released in the spring of 1989?

8 A That's right.

9 Q Okay. And then you also mentioned they could
10 electronically transmit that to the purchasing
11 department?

12 A (Witness nodding.)

13 Q That requisition would move electronically to
14 the purchasing department?

15 A That's right.

16 Q When the purchasing department got this
17 electronic requisition, what could purchasing do with
18 that requisition?

19 A Purchasing could do a couple of things. And
20 the first one they could do is they could take the
21 request and look at it. And if they wanted it, and it
22 was appropriate that that request be turned into a
23 purchase order because all of the items on the request
24 were to go to one supplier, they could do what we call
25 a one-to-one conversion. So they could turn a REQ into

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1 a PO.

2 The second thing they could do is they could
3 look, we had a feature that would allow them to break a
4 requisition into multiple purchase orders. So the
5 request would come in, they have a screen that would
6 display each line item in the cart, and they could
7 simply put in a requisition process and it would break
8 it into multiple requests.

9 They could also leave an item sitting in that
10 requisition interface file and they could wait for more
11 similar items to come in from other locations and they
12 could consolidate those items onto a single purchase
13 order. So they were able to do multiple functions with
14 that first version of our product.

15 Q Let me ask you to take a look at Defendant's
16 Exhibit 667. If we could bring up the first page of
17 that, please. And could you please explain to the jury
18 what this is?

19 A What we're looking at was a sales brochure we
20 created. And this particular brochure was used, the
21 purpose of it was for direct mail. And we did a lot of
22 direct mail. That was one of the main ways that we
23 reached our customers. So we bought mailing lists and
24 sent pieces that looked similar to this to people on
25 mailing lists trying to get them excited about our

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1 product.

2 So this particular brochure was specifically
3 designed to announce the release of our new module that
4 I was referring to earlier.

5 Q Bill, could you back out of that and just
6 bring up the picture that's on that front page? Just
7 blow that picture up. What does that little sort of
8 schema illustrate?

9 A Okay. What we were trying to do here was to
10 show people that our product, at the time called P.O.
11 WRITER PLUS, was capable of helping people in these
12 various departments. So what we were trying to convey
13 is you could connect various groups within your company
14 using this product. And that was the announcement of
15 the remote requisitioning functionality.

16 Q Turn to the second page of the brochure, if
17 you could, Bill. 615. There we go. And Is It Worth
18 The Paper It's Written On is the title of this. Could
19 you blow up the benefits and features down at the
20 bottom?

21 A This was in the same brochure that was sent
22 out that spring announcing this product. And the
23 particular reason that was in the brochure was to
24 explain to people why they might be interested in our
25 product.

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1 And when you're selling software, or anything
2 really, you talk to the customer in terms of features
3 because they want to know what does it do, then you
4 talk in terms of benefits, if I buy it, what can I
5 expect it to do for me and my company. What we are
6 looking at now is a list of features.

7 Q The first is requisitions can be created from
8 a pre-defined catalog on the requisitioner's PC?

9 A That's right.

10 Q What did that refer to?

11 A As I mentioned, you could put the products on
12 a stand-alone PC in several locations. And there was a
13 file on that PC called cat.dat and there was a file
14 called called cat.key. Not to get too technical, those
15 two together created a relationship that our customers
16 needed to look for information in their catalog file.
17 So they could key in information, any information, that
18 they wanted, or they could import into that .cat file
19 data that they would want to use to create requisition.
20 So that's what we were referring to when we're saying
21 that they can be created from pre-defined catalogs and
22 the purpose was to create a REQ.

23 Q What kind of information did the pre-defined
24 catalog contain?

25 A It contained several fields. The first field

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1 was an item number field, 15 characters alphanumeric,
2 still is today, two lines of description that the user
3 could see on the screen to easily understand what it
4 is, it included a price field, a unit of measure field,
5 it included a commodity code, it included a couple of
6 fields to state whether or not tax would be applicable
7 to the item. It contained basic information you would
8 find in any kind of paper catalog.

9 Q With those fields, what fields could a
10 requisitioner user search on?

11 A Specifically, in that version, which is
12 Version 6.0, they could search on the item field, they
13 could search on the first 20 characters of description,
14 and they could search on the commodity code field.

15 Q So they could do commodity code search?

16 A Yes, they could.

17 Q In 1989?

18 A Yes.

19 Q The next feature there, requisitions can be
20 created using a free-form capability?

21 A That's correct.

22 Q What did free-form mean? What was that
23 about?

24 A A lot of times people wanted something and it
25 wasn't in their catalog for whatever reason. Either it

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1 was the kind of thing you would buy one time and you
2 didn't want to put it in the catalog because there was
3 no point. Or it was just something that was new. Or
4 they just didn't even know how to find it or describe
5 it. So we allowed them, in our system, the ability to
6 go in, bring up a screen and just key in all the
7 information that related to the item or service they
8 wanted to buy. It was often used for services as well
9 as items. But, a lot for services.

10 Q And could we please turn, Bill, to the next
11 page. This is a price list for the product?

12 A Yes. This was also part of that same
13 brochure.

14 Q It has a date here, Buy Three or More P.O.
15 WRITER PLUS Modules before December 31, 1989 and
16 receive a 20 percent discount?

17 A That was consistently part of our market
18 strategy is a discount deadline strategy. Because we
19 were selling to purchasing people and purchasing people
20 like to get a discount. So we used for years this
21 concept of doing direct mail, offering a discount
22 deadline and trying to get people excited and to buy
23 our product. So what you're looking at is, again, this
24 was part of the same brochure, and this was announcing
25 the modules they could buy and announcing the price

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1 What people were saying to us is if I have
2 got this information on an old mainframe system, and
3 I'm buying a new PC system, I don't want to key this
4 back in, so give me a nice, easy way to move my data.
5 So that product has been around for years helping
6 customers easily import information into our product.

7 Q And I see EDI Interface. Could you explain
8 what that was about?

9 A Right. EDI was gaining more popularity
10 during this period of time. And I'll explain, you may
11 not know what it is, in case you don't, it stands for
12 Electronic Data Interchange. And it was, as it relates
13 to our software, a method that our customers wanted to
14 use to take purchase orders from our system and to send
15 them out in a standard format that their suppliers
16 could interpret. So the supplier did not have to rekey
17 the order information, they could import it in using
18 this industry standard format. So that was a module
19 that we announced that year as well.

20 Q So that was a new introduction at this point?

21 A Yes. Right. All three of those modules were
22 introduced in Version 6.0.

23 Q Finally, we see remote requisitioning. Now,
24 just out of curiosity, was remote requisition, would I
25 have to buy one of these modules for each employee to

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1 they could buy it for if they made their buying
2 decision by the end of 1989.

3 Q So there was a purchasing module, receiving
4 module, these were all priced separately. You would
5 have to combine them?

6 A If there was a prerequisite, it was noted on
7 the left side. You can see that our foundation module
8 was our purchasing module. So nothing else would run
9 without purchasing being installed. And then you could
10 add receiving, vendor performance. You'll notice, for
11 example, if you bought our vendor performance module,
12 you would be purchasing and receiving as a prerequisite
13 because that module needed data, and that was
14 maintained in those files in order to perform the tasks
15 they needed.

16 Q It is listed here, under some of the modules
17 I see a data interface utility. In the first group at
18 the bottom of the first group, what was that?

19 A We actually have had a data interface utility
20 since 1984. It was one of the first pieces of software
21 that came out after our base purchasing module. And
22 the purpose originally about that was to allow users a
23 very easy way to get data into our system. And that
24 data, what we called item master data, that data could
25 be suppliers, it could be account codes.

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1 whom I wished to distribute this?

2 A There was a prerequisite. You'll see on the
3 left, our customers had to have a purchasing module.
4 And if they wanted to buy remote requisitioning, in
5 this version of our product, Version 6.0, they would
6 have to buy a copy of remote requisitions for each PC
7 they were going to install it on. So if I had two
8 remote manufacturing plants, I would buy two versions
9 of this, and they would send their orders to the
10 purchasing module.

11 Q Now, returning to the pre-defined catalog in
12 remote requisitioning, did you have any interactions
13 with customers who used the catalog in Version 6.0?

14 A Yes, I did.

15 Q What kind of interactions did you have?

16 A It's funny. Being involved in this, funny
17 things come out of it, and a lot of stories basically,
18 which is probably what I remember the most. The first
19 company that bought this remote requisition was called
20 Gem Star Stone Products. It was a stone quarry. And
21 its headquarters wanted this stone quarry to start
22 buying from a catalog and sending their requests in.
23 So it was a brand new module. And, of course, when
24 anything is new, you're always, even though you try and
25 test it, you are afraid it is going to have bugs in it.

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1 Of course, we went out to install it because it was
 2 brand new and we were babysitting the installation.
 3 And the users were pressing the keys and
 4 nothing good is happening. And we're thinking oh, no,
 5 this is horrible. You know, do we have the right
 6 software on the disk, did we test it enough, what's the
 7 matter. And the user said, oh, don't worry, grabs the
 8 keyboard, bangs it over, knocks all this crud out of
 9 it, flips it back and we're fine. And it started
 10 working, miraculously, because we were thinking we
 11 totally screwed up.

12 And so I definitely remember working with the
 13 gentlemen at Gem Star Stone. They were the first.
 14 But, there were a lot of people after that that bought
 15 the product.

16 Q Are you aware of any other documents that
 17 showed that Version 6.0 was on sale as of 1990?

18 A I am. We found a document that was from that
 19 same year, and it was from a magazine that was really
 20 important to us, it was called Purchasing Magazine.

21 Q Let's bring up Defendant's Exhibit 757. Is
 22 this the magazine article you're talking about?

23 A It is. Once a year Purchasing Magazine,
 24 which was a publication that was distributed
 25 nationally, would publish what they called the Buyers

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1 basically, as we started to build out more modules, we
 2 went from just being P.O. WRITER to being P.O. WRITER
 3 PLUS, we wanted people to know we were more than just a
 4 P.O. WRITER. Around Version 4.0 we changed our product
 5 name. This is telling the people that read this
 6 magazine who we are, what our product is called, what
 7 computers it would operate on. And at that time it was
 8 typical technology, PC/XTs were in use, PS/2 was pretty
 9 new. It told people basically what our products did.

10 At that time we had basic modules, purchasing,
 11 receiving, vendor performance, inventory control.

12 Q Bring up the bottom a little bit, Bill. And
 13 the bottom does describe some of the new modules that
 14 were released that year. I think it should anyway.
 15 You have to bring it all the way up.

16 There we go. And so this article also
 17 confirmed the announcement of your remote
 18 requisitioning functionality?

19 A It did. You'll see where it says Circle 401,
 20 that's common, I'm sure everybody is familiar when you
 21 want to know more about any information, you might have
 22 a reader's card, and you can go to the reader's card
 23 and circle the number on the card that's associated
 24 with the supplier. So we would get leads from the
 25 magazine because people were interested in learning

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1 Guide For Software. This went to purchasing agents.
 2 So anybody that was probably going to buy a new
 3 purchasing system within the next 12 months or so would
 4 hang onto this. It wasn't the kind of thing that was
 5 tossed out after you got done reading it.

6 So a couple of things would happen. The
 7 people that published the magazine would have their
 8 sales people call us and say hey, you want to be in
 9 this, right? And you probably going to want to put an
 10 advertisement in this, right? Of course, they were
 11 right. So this happened to represent pretty much all
 12 the people that published purchasing software at that
 13 period of time that I was aware of. And it was really
 14 across the board. It was people that published
 15 software for mainframe computers, minis and also PCs.

16 Q If we look at the first column in the
 17 article, is your company listed there?

18 A We are listed there as American Tech on the
 19 bottom left.

20 Q Bill, could you just -- and it carries over
 21 to the next column, I think. So what was this article
 22 all about?

23 A This was our listing in the magazine. The
 24 company again at that time was called American Tech.
 25 And the product was P.O. WRITER PLUS at this time. And

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1 more about our product.

2 Q Did this article refer to any of our
 3 competitors?

4 A Yeah. It had pretty much everybody in it.

5 Q Can you show us a few? Actually there was a
 6 copy of this article in the notebook in front of you.
 7 It should be in the Binder No. 1, Tab 2.

8 A Okay.

9 Q Got it?

10 A (Witness nodding.)

11 Q So you were listed on the cover. One reason
 12 your name is American Tech puts you at the top of the
 13 list?

14 A That was part of our idea when we named the
 15 company. I know it is not really innovative. It was
 16 part of it. Some of the people we competed with during
 17 that period of time, mostly we competed with people
 18 that had PC-based software, occasionally we would run
 19 into people that were not. Another company is
 20 Bellwether Software. They are listed on the bottom
 21 right-hand side of that first page.

22 Q They were a manufacturer of PC-based
 23 purchasing?

24 A They are. They literally watched everything
 25 we did and followed behind. They were usually a year

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1 or a year and-a-half behind. As we would release new
2 knew versions in the spring, they would watch and come
3 out with the stuff later. They were definitely the low
4 cost player in the marketplace and followed along.

5 Q Going further down in the article. These are
6 listed here in alphabetical order?

7 A That's right. If you were to go to page 91,
8 on the left side, the second down there was a company
9 called Greentree Software. And Greentree Software was
10 a competitor. We competed with them almost in every
11 deal during that period of time. We really fought neck
12 and neck with them. And they had a product called
13 CAP-3 which they were a competitor of ours.

14 Q Their principal function was vendor
15 performance module?

16 A Yes.

17 Q What do the hierarchical codes refer to, what
18 was that about?

19 A I can't recall what they would be talking
20 about here. I'm sorry.

21 Q Electronic filing cabinet, contract
22 management?

23 MR. ROBERTSON: Object, Your Honor.

24 THE COURT: Sustained.

25 BY MR. DAY:

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1 good at listening to their customers and good at
2 servicing their customers.

3 Q They were in the market at the same time you
4 were?

5 A Yes.

6 Q And who were the people that were in
7 Technical Services Associates?

8 A There were two gentlemen that I was familiar
9 with just because I would see them at trade shows.
10 Dave Wilson was the person that -- I don't know his
11 exact title. But, he was clearly the leader of their
12 company, president or CEO. I'm not positive of his
13 title. And Jesus Ramos who I was, I believe, to be
14 more of his technical partner. But, we would see Dave
15 and Jesus at the MPM show every year. Just like we
16 were there, they were there. And usually we would put
17 our booths pretty close to each other and spend a lot
18 of time trying to attract the attention of people
19 attending the show.

20 Q When you attended these shows, would you
21 actually demonstrate and display your product?

22 A Yes. Absolutely. That was one of the main
23 things we did was to try and build from by showing
24 people what the product could do.

25 Q And, similarly, were you able to walk through

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1 Q Any other competitors in here?

2 A There are some other competitors. One is, if
3 you were go to page 95, and in the center column of 95,
4 about halfway down roughly, there is a company called
5 Structured Computer Systems, and their product was
6 called Reality. And their product was very, very good.
7 They definitely led our marketplace in terms of
8 features and functions and they just had a great
9 product. They were -- we probably remember them most
10 because when we were selling our product, as you saw in
11 our price list, we were selling it for a couple of
12 thousand or a couple of hundred dollars per module.
13 And these people were in a different class. They were
14 getting six figures for their software. And we thought
15 that was pretty good to be able to do that in the
16 market at that time. They really had strong
17 capabilities. And probably the company we competed
18 with, in addition to Greentree, really the three of us,
19 Greentree, TSA and P.O. WRITER were heavy competitors.
20 That's at the bottom of the center column. And they
21 had a product called Gateway. And they had a very good
22 product. And we really battled it out with them.

23 They did a lot of the same functionality that
24 we did. And we looked at them very closely because
25 they were very good at keeping up with technology and

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1 the show and observe your competitors' display and
2 demonstrate their products?

3 A Yes.

4 THE COURT: Let's stop and take a break.
5 Take 15 minutes.

6 (Jury left the courtroom.)

7 THE COURT: Okay. Lisa, are you okay? All
8 right. Just tell her to take it down a notch. The
9 court reporter over here is struggling to keep up with
10 this.

11 (Recess taken from 4:00 p.m. to 4:05 p.m.)

12 THE COURT: All right, let's bring in the
13 jury.

14 MR. DAY: Before we bring in the jury, I have
15 found out what happened. The first thing is, I want to
16 deeply apologize and I want to thank Mr. Robertson and
17 Ms. Eckstein for bringing it to my attention. When I
18 was in Court yesterday, a demonstration was given by
19 ePlus and I understand the witness before the
20 demonstration entered some data into the demonstration
21 system so that ePlus could see the data. It did change
22 because it had data that was not in the original
23 demonstration. It was merely data. We are going to
24 take that data out and go back to the original
25 demonstration system. I apologize. I didn't know

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1 about it.

2 THE COURT: That's fine.

3 MR. DAY: I'm very, very embarrassed.

4 MS. ECKSTEIN: May we have another brief
5 inspection this evening, Your Honor?

6 THE COURT: Sure. You can take a look at
7 it. If it goes back to what it was, no problem.

8 MR. DAY: I want to thank them for bringing
9 it to my attention, and if they have any other problems
10 I would appreciate them bringing it to my attention.

11 THE COURT: No problem. Let's bring the jury
12 in.

13 MR. DAY: Your Honor, we are going to have
14 to interrupt and adjourn early today. Would that be
15 okay, in order that we can get this problem fixed?

16 THE COURT: That's fine with me.

17 MR. DAY: Thank you.

18 (The jury entered the courtroom.)

19 THE COURT: All right, Mr. Day?

20 MR. DAY: Thank you very much.

21 BY MR. DAY:

22 Q Ms. Fielder, when we broke, I think we were at the
23 manufacturing convention in the spring of 1990. You
24 were talking to us about some of the competitors listed
25 in that article. And I was asking you whether you had

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1 catalog.

2 A Yes. Okay. The next major release after that --

3 Q Could they do that in Version 6.0?

4 A From a catalog?

5 Q From a specific vendor catalog.

6 A From a vendor catalog. No, they could create a
7 purchase order and they could do that by item, by
8 description, or by commodity.

9 Q With Version 6?

10 A With Version 6, that's right.

11 Q Did it later become possible for a user to
12 develop, to use the P.O. WRITER system in order to
13 generate a purchase order from a specific vendor
14 catalog?

15 A That's correct. After Version 6 we released
16 Version 7 of our software and we put some basic
17 features and functions into our product. But what we
18 were needing to do at that point in time was to add a
19 lot of features and functionality. And some of the
20 things that were starting to stack up on our list that
21 we were getting from our customers and our prospects
22 would involve us changing our database. And that
23 doesn't sound like a big deal, but when you own a
24 software company and you start changing your database,
25 that means a couple of things to the owners and to the

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1 an opportunity at these conventions to go around and
2 see your competitors' demonstrations of their
3 software. Did they have literature out regarding the
4 features and functions of their software?

5 A Yes, they did. That was most common at the trade
6 shows. We would all have a booth of various sizes, and
7 it was very common to take sales literature to these
8 trade shows to give to prospects, but it was also very
9 common at these trade shows for us to take literature
10 from each other to learn more about what was going on.
11 So that was common. And to do demonstrations and to
12 look over people's shoulders and just to see what's
13 up.

14 Q Okay. So we were at Version 6.0 of the P.O.
15 WRITER system. This was 1990. At that point in time
16 could a user of the system create a purchase order for
17 an item from a specific vendor catalog?

18 A Yes, they could.

19 Q What was the next version of P.O. WRITER that you
20 introduced? 7.0?

21 A I'm sorry. Could you ask that last question
22 again? You were talking about creating a PO from a
23 catalog; is that correct?

24 Q I was asking about whether a user could create a
25 purchase order for an item from a specific vendor

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1 people in the company.

2 The first thing it means is that you have to
3 consider your current customers and how you give them a
4 migration path to the next version, which means you
5 have to take their very important business information
6 and make sure that you have programs that will
7 accurately convert it to the next highest version. So
8 that requires additional effort for the company. So
9 what we were doing is stacking up, if you will, a wish
10 list of the customers and some of the major things we
11 needed to do until Version 8. So when we released our
12 Version 8, which you can see on our timeline here, that
13 was a huge improvement for our company and it did -- it
14 added many, many features and functions to our
15 product.

16 Q What were some of the features and functions that
17 you stacked up and added in Version 8?

18 A I mentioned that earlier that we had user-defined
19 fields in our system. This was the version of our
20 software where we introduced those 12 user-defined
21 fields. And we also made several improvements to our
22 item master file. And when I say improvements, I'm
23 speaking specifically about adding a couple of fields.
24 One of the fields that we added was a field called the
25 catalog ID. And that would allow our users to put an

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1 item that was in our system and associate it with a
2 catalog. In addition, we expanded the description, so
3 I mentioned earlier this afternoon that we had two
4 lines of 20 characters each, a total of 40 characters
5 that people were using up to this point. But if they
6 wanted to put in additional information, they had to
7 key it in at the keyboard.

8 Well, this Version 8 allowed them to put in
9 extended description and to save it with an item. So
10 now you could have a more robust display of information
11 about the item. In addition to that, we put four
12 user-defined fields in the item master that our
13 customers could use for really any use that they might
14 want. And I mentioned earlier some of those common
15 uses in a manufacturing company might be to re-label a
16 field to say manufacturer's number because that's kind
17 of a way you might also think about an item if the
18 purchasing department doesn't happen to use the
19 manufacturing number regularly. So that was one
20 implementation. There were others, but that was a
21 major improvement for our product and it gave us a lot
22 of flexibility and really helped boost sales that
23 year.

24 Q Do you have any documents that reflect these
25 changes in Version 8.0?

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1 people was also this brochure. So we were wanting to
2 start to let people know right up front that if you
3 bought our software you could also buy this great
4 maintenance program and get these features and
5 functions that were part of it. The second way that we
6 used this brochure was when we sent out invoices to our
7 customers to renew their annual support agreement, we
8 used this as well so they would get the cover letter,
9 their invoice, and also this document, so that we were
10 reminding them of the kind of things that we were doing
11 with our product over time so they would be able to see
12 that there was a value in the releases.

13 Q Now, Bill, could you turn to Page 2629, please?
14 Does this page describe some of the new functions and
15 features in Version 8.0?

16 A That's correct. Again, our history is a major
17 release per year. This particular one announces a
18 July, 1991 release date for this software, which would
19 be consistent with the way we do business. And it does
20 list a few things, I've mentioned a little bit earlier,
21 on the left side, five bullets down, I'm talking here
22 about the 12 user-defined fields. And again, this was
23 announced as a major feature in this product. If you
24 look at the right side of the screen and you look at
25 the third bullet down, it talks about our extended

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1 A Yes. I believe we do.

2 Q Can we take a look, Bill, at Defendant's Exhibit
3 759. This is Tab 15 in your second binder, which
4 should be the last tab. Could you tell us what this
5 document is?

6 A This was a brochure that our company prepared to
7 describe the features and benefits of participating in
8 what we called our client support program, which you
9 might think of as a maintenance program.

10 Q And this is released in conjunction with Version
11 8.0?

12 A Yes. Actually, it was released right around that
13 time. And the major purpose of this document was to be
14 sent to two primary groups of people. One was people
15 that took a trial of our software. That's really the
16 way we sold our product, is that we would advertise.
17 If someone was interested, they would get more sales
18 literature. If they were really interested, we had an
19 order form and it was called a 30-day trial order. And
20 they could request from us as much or as little of our
21 software as they wanted. So if they wanted to look at
22 every one of our modules they could check off the
23 boxes, pay \$95, and we would ship them the actual
24 product and that's how we sold our product.

25 Part of what would go into the kit that we sent to

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1 description window. And this is extended description
2 for items that are maintained in our system. So it
3 says we were allowing them with this major release to
4 put in 400 additional characters of description with
5 word wrapping. And we have an exclamation mark there.
6 And that probably seems trivial to you, but at that
7 time it was pretty cool for us. The window was
8 accessible from the item master file or the PO creation
9 screen description.

10 And then if you look at the very bottom right
11 bullet, we did add several fields in this version, as I
12 mentioned. We saved a lot of features so that we could
13 take our customers through this major upgrade as
14 painlessly as possible. So we did tell them in this
15 release and we did release at that time an item master
16 that had a currency field because we were starting to
17 get customers that wanted to use our product
18 internationally. We included an additional field for
19 pricing, unit of measure, so there was always a unit of
20 measure, but sometimes you buy in one unit of measure
21 as a purchasing agent and you price in a different unit
22 of measure.

23 Let me give you an example of what I mean. I said
24 that Tim's background and mine was in manufacturing
25 systems and I grew up in Detroit and one of the markets

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1 I called on was the steel market for General Electric.
 2 And it is very common in that steel market to, for
 3 purchasing agents, to buy in weight. But so they might
 4 buy in pounds, 50,000 pounds of something. But when
 5 they cost it, they cost it in a cost per
 6 hundredweight. So with this version of our software, a
 7 buyer was able to buy the unit of measure that they
 8 were familiar with, which happened to be pounds, and
 9 the system would automatically extend the price using
 10 the proper conversion method for the industry. So it
 11 was, again, it was an enhancement to our product that
 12 let us sell to more companies.
 13 Q What about the next item, catalog ID? What did
 14 that feature add?
 15 A This catalog ID feature, again, it was added to
 16 our item master file. And it allowed the user to
 17 associate an item with a catalog or something that
 18 might be meaningful to them. We put it in for catalog,
 19 but it could be used for many different purposes.
 20 Again, we didn't dictate to our customers how they
 21 implement our product, but that was the purpose when we
 22 added it to the system. Then we added some additional
 23 fields that are listed as well. But those were really
 24 the major enhancements as it relates to using our
 25 product at that time. You can see at the bottom right

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1 Q Now, when you talk about adding these attributes
 2 to the item master field, does that mean that if you
 3 took a particular item, and let's treat one item as a
 4 record, a row in a table, that you have all these
 5 different attributes that you can specify for that item
 6 so you can specify an extended description of 400 words
 7 Per item?
 8 A Yes.
 9 Q You also added a catalog ID attributes and now you
 10 could associate that item with a particular vendor
 11 catalog?
 12 A Right.
 13 Q And then you also added to that row for
 14 user-defined fields?
 15 A Correct.
 16 Q And that meant that your users, your customers,
 17 could take, could go into the database themselves and
 18 program it to assign significance to that attribute?
 19 A They could if they chose to, yes.
 20 Q They could specify that attribute to be a part
 21 number if they wanted, as you said.
 22 A Yes.
 23 Q What other things did your users use those four
 24 attributes, those four user-defined attributes for in
 25 order to characterize the items in their master item

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1 side there is a screen and this screen is showing the
 2 extended description window as it existed in our
 3 Version 8 and subsequent releases from there.
 4 Q Bill, if you could bring up the screen at the
 5 bottom there. I think that's what you are referring
 6 to.
 7 A That's right.
 8 Q Where does it show the extended description?
 9 A In the window to the right, it is a little hard to
 10 see because it was highlighted, but it says extended
 11 item, extended description. As a feature of the
 12 product, we state to the users that they can view this
 13 data in the PO creation module, and also when they are
 14 doing item file maintenance. So in this case you will
 15 see that on purchase order marked 001, right here, you
 16 can see that it is relating to this line here. And it
 17 is for this item, which happens to be the item that we
 18 have on our sample PO. And it is showing a small
 19 example of extended description that could be added
 20 with this major version.
 21 Q What was the extent of the description that could
 22 be included in that?
 23 A In this version, it was 400 characters that could
 24 be added to the item master file to further describe
 25 the item.

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1 database?
 2 A One of the common implementations of the item
 3 master user-defined fields was to allow them to specify
 4 a preferred supplier and to specify alternate
 5 suppliers. And it was a reference for people that were
 6 using the system so they could see where this
 7 particular item might be procured.
 8 Q What other uses were made of it?
 9 A Oh, gosh, some customers that bought forms, like
 10 in the banking industry, for example, where a
 11 manufacturer number would not be applicable at all, I
 12 saw a common use of it being for an internal form
 13 number. That was another application that was very
 14 common. Those were primary ones, the alternate vendor
 15 supplier, sometimes they would provide alternate part
 16 numbers. And in fact, when I would do training, which
 17 I did on a pretty regular basis, I would share these
 18 concepts or these best practices that our other clients
 19 were using with people that we were educating.
 20 Q Are we going to actually see a video of a training
 21 course that you gave in 1993 on this very topic?
 22 A Exactly. We found a videotape from February of
 23 1993 that was taken of the teaching of a course in
 24 Orange County, California and explaining our master
 25 files and how to configure them and offering different

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1 alternative uses for our user-defined fields. So the
 2 ones that I just expressed with you are consistent with
 3 how I would train people in the 1980's.
 4 Q Did you actually train people -- well, the video
 5 is from 1993, isn't it?
 6 A I'm sorry. Actually, yes, you are right. It is.
 7 It is from February 17th of 1993.
 8 Q And did you actually train people at that time to
 9 use the user-defined fields to specify an alternate
 10 vendor or to specify a preferred vendor?
 11 A Yes. That's specifically what's in the
 12 videotape.
 13 Q Who would determine whether and how to configure
 14 these user-defined fields, what to use them for and how
 15 to set them up?
 16 A That was strictly at the customer's option. Our
 17 job was to provide a software product that was flexible
 18 and easy to use and to share with our customers methods
 19 to help make them successful, but it was our customer
 20 who made a final decision about how they use our
 21 fields. And that was, you know, the common business
 22 practice at that time.
 23 Q And prior to August of 1993, did purchasing that
 24 -- I guess you were still American Tech at that point.
 25 Did American Tech teach or specify any specific or

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1 Kentucky Derby time. That's when we would make our big
 2 announcement as to what it was, what features and
 3 functions were in it. And then we would start shipping
 4 shortly after that. So that year we started to ship in
 5 June that particular version.
 6 Q What new features were introduced in Version 10?
 7 A Let's see, there were several features, but the
 8 primary one that the customers were asking for was the
 9 ability to have some of the functionality that we put
 10 into the purchasing module moved over to the
 11 requisitioning module as it related specifically to
 12 creating requisitions from a catalog. So we allowed
 13 the user on the requisitioning side to make a
 14 selection, to, if they knew the catalog name, they
 15 could fill in a catalog ID. If they didn't, they could
 16 press a key and search through a list of valid
 17 catalogs, pick their catalog, and sub-sort based on,
 18 once they picked a catalog, they could sub-sort on item
 19 description and commodity. So it gave them a better
 20 way, if you will, to find information that was in the
 21 system.
 22 Q And you released this functionality in Version
 23 10?
 24 A Yes.
 25 Q Did you demonstrate this functionality at the NAPM

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1 single way to use these user-defined fields?
 2 A Specific or single way? No, not a single way. We
 3 would offer ideas and options and just present things
 4 to the customers to get them thinking and get them
 5 engaged and try and help them understand how to get
 6 more value out of the product. Again, we didn't
 7 dictate. We just shared ideas with them.
 8 Q Did you ever teach your customers how to use these
 9 fields to specify sources for catalog items?
 10 A Yes. We did.
 11 Q In Version 8.0 was the catalog ID field used with
 12 the requisition module?
 13 A In Version 8.0, it was not used with the
 14 requisition module. The users at that point were still
 15 creating requisitions using item numbers, descriptions,
 16 and commodity codes. It wasn't until later that we
 17 brought that more robust functionality over to the
 18 requisitioning module.
 19 Q When did that occur?
 20 A That was our Version 10.
 21 Q Version 10. When was Version 10 released? Could
 22 we have the timeline, please?
 23 A It was released in 1993. And again, specifically,
 24 it was announced at the NAPM show in the spring. The
 25 NAPM show was also in April or May, right around

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1 trade show in the spring of 1993?
 2 A Yes, we did.
 3 Q And when did you first offer Version 10 on a trial
 4 basis to customers in the United States?
 5 A It was shipping in June of that year.
 6 Q It was shipping in June of 1993?
 7 A Yes, it was.
 8 Q Are there any documents that show a sale of
 9 Version 10 to a customer in the United States prior to
 10 August of 1993?
 11 A Yes.
 12 Q Could we have Defendant's Exhibit 655, please?
 13 Okay, so first of all, at the top of this page there is
 14 a date, February 1st, 2006. Do you see that?
 15 A Yes. What you are looking at in that highlighted
 16 area is the date that this particular report was
 17 printed at our company. It was printed this year.
 18 Q And what is this report? Can you identify what
 19 this document is for us?
 20 A This is a standard note report from our contact
 21 management system and it is for a large law firm in
 22 Chicago who has been a customer of ours for a long
 23 time. Specifically, you can see since 1993. And what
 24 this document is showing me is really two things. If
 25 you go to the very bottom where it says January 7th,

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1 1993, you can see that this is the year that our
 2 customer bought our original product. At that point in
 3 time, our current version was our Version 9. So when
 4 they bought, we shipped them a purchase version. That
 5 happened to be our Version 9. They bought a multi-user
 6 version and bought a couple of different modules from
 7 our company. And then above that where you look at
 8 June 9th of 1993, you can see that we began shipping to
 9 we call it our CSP or Client Support Program. That's
 10 that maintenance program I referred to. So this
 11 particular customer was shipped their upgrade on June
 12 9th, and they were entitled to it because they had a
 13 license. When they licensed our product, they did buy
 14 our support program. I believe I have a copy of their
 15 signed license and the date and time that goes along
 16 with this. So I can see that our product was shipping
 17 right on schedule that year, and it was consistent with
 18 our regular business practice.
 19 Q So your business records reflect that you shipped
 20 a version of -- you shipped a copy of Version 10 of
 21 P.O. WRITER to Kirkland & Ellis in Chicago on June 9th,
 22 1993?
 23 A Yes.
 24 Q How do you know when the date and time shown on
 25 these shipments are accurate?

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1 A The dates and times in our system are stamped
 2 automatically by the computer.
 3 Q Okay. Are you aware of any customers who used
 4 Version 10 in the United States prior to August 10th,
 5 1993?
 6 A We had quite a few customers that were buying the
 7 product at that time. Specifically, some of the larger
 8 people that we were dealing with that had a lot of our
 9 modules, including our requisitioning module, were
 10 Bayer, the people that make aspirin; Sarah Lee
 11 Corporation; Simon & Schuster. There were a couple of
 12 names that you might be familiar with. They were some
 13 of our bigger customers that received the product that
 14 summer.
 15 Q When you shipped products like this to the
 16 customer, did you provide any documentation or manuals
 17 regarding Version 10?
 18 A Yes, we did.
 19 Q With the product?
 20 A Absolutely. When we buy our product, as I
 21 mentioned earlier, they could take a trial. And when
 22 our customers took a trial, we would ship the actual
 23 software, the actual manuals. The only limit we would
 24 keep on it is how large we would let our item master
 25 file become. When the customer decided they wanted to

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1 buy, then we would send them a password sheet. They
 2 would key in a password and it would open up the
 3 files. If they didn't want to buy, then the agreement
 4 that we signed with them said they would delete our
 5 files and they would return our software and manuals to
 6 us. And that was our standard business practice. Our
 7 standard business practice when we shipped our upgrades
 8 was also to ship all of the users manuals for the
 9 modules the client was licensed for at the time of the
 10 shipment.
 11 Q And what manuals did purchasing.net.pub publish
 12 for Version 10?
 13 A We published several modules for every major
 14 version. First, every software module had its own
 15 user's manual. And then in addition to that, we would
 16 send an administration manual and a security manual.
 17 But probably the primary tool that we would send
 18 people, because it was the one thing we knew that they
 19 always read, was our Guided Tour book. And all of our
 20 customers received the Guided Tour as well.
 21 Q We will get to that in a second. When did you
 22 start distributing the Version 10 manuals?
 23 A They shipped with the product.
 24 Q And have you retained copies of the Version 10
 25 manuals?

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1 A Yes, we have.
 2 Q Were the manuals distributed individually or as a
 3 set?
 4 A Well, they were published as a set. And again,
 5 they were distributed with whatever the customer
 6 wanted. So again, if they tried our product and wanted
 7 to see every module, we would ship everything out to
 8 them. If they wanted to buy a particular module, maybe
 9 they had a purchasing module now and want to buy a
 10 receiving module from us, then we would just ship the
 11 receiving module. It would depend on what they really
 12 wanted to buy. They would always get a manual with the
 13 software.
 14 Q You mentioned Guided Tour. Let's take a look at
 15 that. Could we see Defendant's Exhibit 200, please?
 16 And in particular, could we take a look at 2836, table
 17 of contents. Now, do you know when this was
 18 published?
 19 A This particular manual is for our DOS product; it
 20 is for Version 10; and it was published in the spring
 21 of 1993. I believe specifically it was April of 1993.
 22 Q Okay. And what does the table of contents reflect
 23 in your Guided Tour?
 24 A It reflects basically the tour itself, reflected a
 25 view of the modules that were available in our product

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1 at that point in time. So you can see, you know, we
 2 started with the basics being our purchasing module.
 3 Q This is an overview of the entire system, all the
 4 modules that comprise the system?
 5 A Yes.
 6 Q It talks about the purchasing functionality, the
 7 PO creation, reporting, receiving, everything that
 8 comprised the system.
 9 A That's right.
 10 Q Okay. In Version 10, was it possible to populate
 11 a requisition with items selected from a catalog?
 12 A Yes, it was.
 13 Q Was that feature first introduced in Version 10?
 14 A Yes, it was.
 15 Q Okay. And generally, how was that done in P.O.
 16 WRITER?
 17 A The method, as I mentioned a little bit earlier,
 18 is the user of the requisitioning software would type
 19 in a command at the DOS prompt and bring up a screen.
 20 And the screen would give them a menu of choices. And
 21 in this particular case, the first menu choice was req
 22 creation from catalog. And that was the first thing
 23 our users could do. And when the user saw that screen,
 24 they had a couple of choices. If they knew the catalog
 25 ID, they could key it in. If they didn't know the

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1 our item, we said. That's okay, it doesn't matter. You
 2 don't have to know that. Which was really an
 3 improvement, because if you think about it, if you are
 4 going to shop from a catalog, you have to pick the
 5 catalog up and look at it. But what we said in our
 6 system is just leave that catalog ID blank and
 7 essentially use the product the way you are used to
 8 using it. Search for items, search for descriptions,
 9 search for commodities. And essentially, that allowed
 10 them to not have to worry about a catalog ID. They
 11 could simply use the product to look across the whole
 12 database. So the introduction of the catalog ID field
 13 really gave them a little additional way to slice and
 14 dice their information.
 15 Q Is this functionality described in the Guided
 16 Tour?
 17 A Yes, it is.
 18 Q Could we take a look, please, at Page 2981. Now,
 19 at the bottom of this, what does this tell us about
 20 requisitions?
 21 A Earlier in my description I mentioned the user
 22 would bring up this screen and I mentioned the first
 23 choice was requisition from catalog. But the
 24 description below the screen says, Requisitions may be
 25 created from a catalog using the point-and-shoot method

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1 catalog ID, they could press a key combination and the
 2 system would pop up a window and it would show them
 3 valid catalog ID's, which could be valid catalog names
 4 or supplier names or commodity names. It didn't
 5 matter. We encouraged our customers to implement our
 6 product in a way that made it easy for them to learn
 7 and use and be successful. If they selected
 8 information to put in that catalog ID field, then they
 9 were to make an additional selection below it.
 10 So for example, I might bring up and select a
 11 catalog Home Depot, and I might want to look in my Home
 12 Depot catalog for just nails. So the user could then
 13 go and in the description they could type the word
 14 nails. And our system would only look for items that
 15 had the catalog ID of Home Depot, where the description
 16 started with nails. And it would come back and
 17 display, if there there was a match, those matching
 18 items, which might be one or more. And if there was no
 19 matching items based on the user selection criteria, it
 20 would simply come back and say, No matching items.
 21 Q Was it possible to search across multiple
 22 catalogs?
 23 A It was. Again, in our item master, you associate
 24 an item to a catalog ID. If the user really didn't
 25 have a clue what catalog ID might be associated with

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1 or created in a free-form mode. And when I say
 2 free-form mode, what we meant is, if you look at the
 3 screen selection, Number 2 says free-form requisition,
 4 so we gave the user the ability to do both.
 5 Q Could we look at the next page, Bill, please,
 6 131? What do we see here?
 7 A This is the screen that I described verbally a few
 8 minutes ago. So as soon as you selected Number 1 off
 9 the requisition menu, then the system would display
 10 this screen. And you will notice that it says at the
 11 top, Create Requisition from Catalog. And the next
 12 updated element you might want to look at on the left
 13 side is catalog ID. And again, this is the field where
 14 if they knew the catalog name they could key it in.
 15 And if they didn't, then you will notice that there's
 16 some instructions on the bottom of that screen that say
 17 press Shift-F4 to view valid catalog ID's. So if the
 18 user didn't know, again, they could press Shift-F4 and
 19 the system would pop open a window and say, Here are
 20 the valid catalogs you can choose from.
 21 Q If you entered a catalog ID at the top, you could
 22 select a portion of the database that was limited to
 23 the items that you had associated with that catalog.
 24 A That's exactly right.
 25 Q When you built a requisition from items in a

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1 catalog, were the items in the requisition associated
 2 with a source?
 3 A Again, it depended on the customer's
 4 implementation. We never dictated this. But if the
 5 customer used that catalog ID field to represent the
 6 supplier they were buying the item from, then the
 7 answer would be yes. If the customer didn't, and that
 8 could happen, too, because again it was purely up to
 9 the customers as to how they implemented our product,
 10 then they could leave either that field blank, or they
 11 might even put in something like office supply. So the
 12 thought might be, and I have customers that did do this
 13 and still do it today, where they are saying it
 14 shouldn't matter to the end-user, to the requisitioner
 15 that needs a pencil, where we are getting that pencil
 16 from. All they need to know is that I'm going to
 17 service their needs. So they can select office supply.
 18 They can tell me they need ten pencils, paper,
 19 whatever. They can also tell me they need other
 20 services. And I'll figure it out for them. Because I
 21 may have a supplier that I am using this year that I
 22 have got a contract with that I may not use next year.
 23 So I might be using the Office Depot people this year,
 24 I might be using the Staples people next year. The
 25 user doesn't have to care. So I'm going to make my

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1 Q Could you explain that term, please?
 2 A Sure. We really had two user communities. I
 3 mentioned this earlier this afternoon. You have what
 4 we call the requisitioning community or the people that
 5 have a need or a want. I want an item. I want a
 6 service. Then we had another group of users which were
 7 the purchasing community, which were there to service
 8 the other people. And when the requisition was sent to
 9 the purchasing module, and at that point it could be
 10 sent in a number of ways, it could come over a
 11 telephone wire, it could come through a local area
 12 network, it could come over what's called a wide area
 13 network. What that means to you is at this point in
 14 time people were hooking computers together on a
 15 regular basis. And more and more people were getting
 16 personal computers on their desk. So that PC's were
 17 really proliferating at this point.
 18 Q This is within a company.
 19 A Oh, sure.
 20 Q You are talking about a local area network inside
 21 a company?
 22 A That's right. Or a wide area network for a
 23 company.
 24 Q That would be a private line?
 25 A That's right, absolutely. So what we are looking

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1 field use generic. And that was a common
 2 implementation. So, long-winded answer as usual,
 3 sorry. But the way it would be supplier-specific is
 4 only if the user used that field to indicate the
 5 supplier.
 6 Q Did users do that?
 7 A They did, sure. But they didn't have to do it.
 8 Q And it was their choice whether they did or
 9 didn't?
 10 A Yes.
 11 Q If they took the catalog ID field in the master
 12 item table in their database and they chose to enter
 13 into their catalog ID specific vendor catalogs, then in
 14 those vendor-specific catalogs the items would be
 15 associated with the source.
 16 A That's correct.
 17 Q All right. Once you built a requisition with
 18 items from the catalog, was it possible to generate
 19 purchase orders for the items in the requisition?
 20 A Absolutely.
 21 Q Let's take a look at Pages 149 to 151 of the
 22 Guided Tour if we could, please. I think that's 3,000
 23 is the first one. This is called Requisitioning
 24 Interface.
 25 A Yes.

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1 at here is when the users got done saying, I want, and
 2 the request was sent to purchasing, the user of this
 3 particular feature, which could be an administrator or
 4 a professional buyer, it didn't matter to us, was now
 5 in a position where they could select Number 14 on this
 6 screen and Number 14 says requisition interface. And
 7 this would allow the user to bring up some choices on
 8 how they would want to handle that requisition. And
 9 again I mentioned earlier, but I'll just reiterate that
 10 you could take a req and turn it directly into a
 11 purchase order or you could take a requisition, because
 12 the items that were on the requisition might be very,
 13 very dissimilar, and you could turn it into multiple
 14 orders. Conversely, you also could have items that
 15 came in out of multiple requisitions and you could
 16 consolidate them onto a single purchase order. So this
 17 particular piece of our software was very, very
 18 flexible and it was good for people because it saved
 19 them having to do a lot of shuffling of papers. It did
 20 it for them electronically and made it very easy to use
 21 the product.
 22 Q Take a look at the next page. Does this describe
 23 in general terms what you just told us?
 24 A That's right. This is the screen that the user
 25 would use as the next step. If they still had users

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1 that were out using our remote requisition software,
 2 which they could do, so you could have people using a
 3 Stand-Alone remote requisitioning and you could have
 4 people using requisitioning on the LAN, you could have
 5 these in tandem. If I had both implementations, I
 6 could select Number 1 and the system would go get my
 7 remote requisitions. I could select Number 2 and the
 8 system would allow me to convert my requisition
 9 directly into a PO, we called it a direct PO, direct
 10 conversion. Not a lot of guesswork on that for the
 11 users. That was the only purpose of it. And Number 3
 12 was the choice where you could, the user could
 13 consolidate and split multiple lines into a PO or a
 14 requisition onto multiple PO's.
 15 Q And if we turn to the next page, 3002, I think,
 16 does this illustrate a requisition with multiple
 17 items?
 18 A Yes, it does. You can see in the top left-hand
 19 corner where it has the requisition number, and
 20 immediately to the right of that it says Line Number
 21 001. And what that means is that was the first line
 22 item on that particular requisition. And if you look
 23 immediately below it, the solid line, you will see the
 24 same requisition number, and you will see Line 002. So
 25 in this particular case, what we were demonstrating to

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1 master as one option as a way to get information into
 2 our system. Another option on getting information into
 3 our system is I could get a catalog from my supplier
 4 and I could import it using my data interface utility.
 5 But for this simple example, I'm going to put visually,
 6 if you will, the item in our item master file. And
 7 when I do, I can save it. And then what I might do is
 8 say I want to find out who can source it, who I can buy
 9 this item from.
 10 So in the purchasing role, we call that sourcing.
 11 I want to find people that can supply this to me. I
 12 might go out and create a request for quote, send that
 13 to a couple of suppliers, and have the suppliers
 14 respond to me. I can make a buying decision based on
 15 that and say I'll pick supplier A. I might send an
 16 order to them right then, or I might put what's called
 17 a contract into our system and save the record.
 18 So what the professional purchasing person was
 19 doing was the buying activity for their I Want user
 20 community. As soon as you had one transaction in our
 21 system, and in this example, it could be a contract,
 22 for example, it could have been a PO, what we
 23 engineered into this requisition interface to try and
 24 make it easy for the user was the ability when the
 25 requisition was sitting there, let's say somebody

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1 our prospective customers and to our paid customers was
 2 the fact that you could have on our requisitions very
 3 different items. So we specifically, when we prepared
 4 our documentation, wanted them to see that you could
 5 put a drill bit in with a swivel chair. Again, make it
 6 easy for the customer to use it. And they will use the
 7 product instead of making it difficult for them to use,
 8 and then they will figure out a way to go around the
 9 system. So we built the flexibility to make it an easy
 10 product.
 11 Q Look at the bottom. The requisitions you created
 12 with two line items is displayed. That's the
 13 screenshot above?
 14 A Right.
 15 Q You go on to see we can now select a vendor for
 16 each item or we can have the system do it for us.
 17 A That's correct.
 18 Q Explain what you mean by that.
 19 A Sure. In our item master file, we also maintained
 20 ten fields that are part of the standard item master.
 21 And those ten fields would be populated automatically
 22 by our system with transaction data. So let me take
 23 you through the process. If I were going to buy a
 24 swivel chair, similar to the one you are sitting in in
 25 the jury box, I could go to the P.O. WRITER PLUS item

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1 requests that chair now, to press a single button and
 2 have the system look to the item master and see if
 3 there was history for it. In this case, I have a
 4 contract for it. And it would suggest, and again,
 5 suggest being the operative word here, a supplier for
 6 me.
 7 Now, I could buy from that supplier if I wanted to
 8 by simply finishing the order, or I could change the
 9 supplier to a supplier I might choose to do business
 10 with instead. So what the product did in this version
 11 at that period of time was suggest to the user a
 12 source. If there was an item in the item master and at
 13 least one transaction, it didn't have to be purchased,
 14 one contractor transaction in the database, we built
 15 that relationship for them. So that was how we tried
 16 to make it easier for people to buy.
 17 Q Did you suggest multiple alternative sources?
 18 A No, we would not. It would be one. When they
 19 pressed the F6 key, what you would see is on the right
 20 side of the screen, on this particular screen, if there
 21 was that transaction I talked about, you would see one
 22 supplier ID being presented for you. Now, we talked
 23 earlier about our customers using our item master to
 24 have, using those user-defined fields, to say preferred
 25 supplier and alternate supplier. If they did that,

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1 they could view that information, the system did not
 2 produce an alternate supplier for them. It was there
 3 for reference. The only time our system in this
 4 version, in this period of time, suggested a supplier
 5 would be in this process where the buyer is creating a
 6 requisition. If the user didn't say -- they could make
 7 a suggestion on who they would want you to buy it from,
 8 but an automatic assignment could be done in this
 9 process.
 10 Q If the customer did use the user-defined fields to
 11 specify alternate sources, what would happen?
 12 A At this point, with this screen showing, they
 13 could use what we call the process field and save it to
 14 the database. There is a process field in the bottom
 15 right-hand side of the corner of the screen. And if
 16 they used this, it would save the records to the
 17 database. A buyer could pull that record from the
 18 database and view by using the user-defined fields as
 19 their visual clue where else they could source the data
 20 from. That was a common implementation. Our customers
 21 used it. But I don't want you to think that the system
 22 was going to somehow, you know, change suppliers for
 23 them. It didn't do that. It simply presented data to
 24 the buyer and they could make a decision.
 25 Q The buyer would have to make the choice.

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1 Bates Number 3004. Does this explain the process of
 2 creating requisitions in the purchase orders?
 3 A Yes, it does. That's what it would look like.
 4 This is demonstrating again using two suppliers. Here
 5 are our supplier codes right here. We have 54321, and
 6 we have a supplier called Bayless. And the user has
 7 saved the record and the system has assigned two
 8 different order numbers to this single requisition
 9 request. You can tell it was a single request and two
 10 line items.
 11 Q Was there also an ability to check the
 12 availability of these requisitioned items in inventory?
 13 A Yes. There was.
 14 Q Could we take a look, please, at Page 101 of
 15 Defendant's Exhibit 200. That's Bates Number 2952.
 16 This page is Chapter 11, Inventory Control.
 17 A Yes. This is a section of the Guided Tour manual
 18 that describes our inventory control module.
 19 Q And is this sort of a top-level menu page for all
 20 the different functions in the inventory control?
 21 A Actually, this screen that you are looking at is
 22 the top-level screen of P.O. WRITER PLUS DOS Version
 23 10. In order to get to the inventory control
 24 selection, you would put in 11 and press the enter
 25 key.

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1 A That's right. The buyer would have to make the
 2 decision.
 3 Q If you had multiple items in this requisition as
 4 you have here, I think you said a drill bit and a
 5 swivel chair. I assume they come from two different
 6 preferred vendors, I assume.
 7 A Yes.
 8 Q If I wanted to convert this into a purchase order,
 9 could I convert this requisition into multiple purchase
 10 orders one from each vendor?
 11 A Yes, you could.
 12 Q How was that done?
 13 A Again, using this field, using the screen, if I
 14 used the F6 key, and there was information, the system
 15 could display a vendor for me. If not, the user could
 16 key in a vendor. They could key in a buyer. And also
 17 a ship-to location. They would then drop to the bottom
 18 of the screen and put a P into process and it would
 19 save it. Because there were two different suppliers
 20 specified in this particular example because you were
 21 buying drill bits as opposed to a chair, then the
 22 system would automatically in the top right-hand side
 23 assign two different order numbers to this one single
 24 requisition request and place it in the database.
 25 Q Bill, could we look at Page 153, I think it is,

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1 Q Okay. Let's look at the next page here, 353. I'm
 2 sorry, 953, I think.
 3 A This is the main menu for our inventory module.
 4 Q And what does this -- can you just generally
 5 explain to us what this, what functions and features
 6 this provides?
 7 A Sure, our inventory control module was used by
 8 people that have responsibility for tracking a
 9 company's items and assets. And when I say items and
 10 assets, I might mean things from forms in a bank and in
 11 an insurance company, to furniture, computers, paper
 12 products, office supplies. Customers that were
 13 manufacturing that used our product could track steel
 14 and pumps and bearings. It didn't matter. Those were
 15 considered to our customers inventory items. So people
 16 that had responsibility to maintain stock, sort of like
 17 you might maintain items in your pantry at home, extra
 18 items, this is the concept.
 19 If you had responsibility to keep track of that,
 20 our inventory module would be very helpful for you. So
 21 it allowed you to find out what you have and where you
 22 have it. It allows you to issue items so if somebody
 23 wants a binder, I could issue it from inventory and I
 24 know then my inventory would be reduced by one binder
 25 in this example. One of the main features of this

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1 module was to help a person know when to reorder
 2 items. So the system included information that you
 3 could -- where you could generate reports where the
 4 system would say, You are low on certain items. So
 5 this concept is, again, identical to having a pantry,
 6 looking in the pantry to say, What do I have, before I
 7 go shopping, and then determining what you might want
 8 to buy. The system could determine for you what it
 9 suggests that you should buy based on information you
 10 maintained in our product. So it was terrific in terms
 11 of productivity savings for people with that job
 12 responsibility.
 13 Q Was Version 10 able to check both local and remote
 14 inventory?
 15 A The inventory information that we maintain is in
 16 the P.O. WRITER PLUS database. And the user wasn't
 17 limited to one location per se. If I had two
 18 warehouses and I maintained forms for creating health
 19 claims and I maintained those forms in two warehouses,
 20 our system would allow you to do that, because you
 21 could specify items in different locations. But what
 22 our system didn't do that you might have been exposed
 23 to at this point, and I want to make sure it is
 24 understood, we did not go out to check inventory in
 25 another company's inventory control system. So we

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1 limit.
 2 Q But if the company had a local area network or I
 3 think you said a wide area network, and it had
 4 operations in Virginia and it had operations in
 5 Pennsylvania, you could have a computer in Pennsylvania
 6 communicate over the company's wide area network and
 7 maintain control over inventory at both locations using
 8 P.O. WRITER?
 9 A That's right.
 10 Q Version 10?
 11 A Yes. One of the customers that I worked with is
 12 Meridian BankCorp. which is located in Pennsylvania,
 13 and they had an implementation very similar to that.
 14 And I mentioned forms because they happen to keep track
 15 of a lot of forms in a couple different places,
 16 including one of their suppliers' warehouses. But
 17 again, they weren't going to the supplier's computer
 18 system. The person in that company that was
 19 responsible for managing forms was the person that
 20 maintained that data in P.O. WRITER PLUS.
 21 Q Okay. So let me just ask you, if I had a business
 22 and I had an operation here in Richmond and I also had
 23 an operation in Pennsylvania, and I had an inventory
 24 here in Richmond and an inventory in Pennsylvania, and
 25 I bought Version 10 of P.O. WRITER, a LAN version of

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1 didn't go to Home Depot and say, Hey, do you have my
 2 wrench? We didn't do that. But if you bought a
 3 hundred wrenches from Home Depot and you brought them
 4 back to your plant and you said, I'm going to keep
 5 track of them here, you could keep track of them in our
 6 inventory module and you could issue them from our
 7 inventory module and when you ran low our product would
 8 tell you, Go get some more. That's how our product
 9 worked.
 10 Q And if you happened to be an operation that was
 11 distributed across several cities, could you implement
 12 the P.O. WRITER in your company and maintain control
 13 over inventory in one city and inventory in another
 14 city with the same system?
 15 A Absolutely. Yes.
 16 Q So you could check both local inventory in that
 17 sense and remote inventory in the sense that it was
 18 geographically separate and distinct?
 19 A Right. To us, it was simply considered another
 20 inventory location and we never limited the user in
 21 how many inventory locations they could specify in our
 22 product. It was really limited by the actual field
 23 length itself. But users could get very creative by
 24 coding A-1 and combination of characters and letters.
 25 So for practical purposes, there really wasn't a

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1 P.O. WRITER, I could put a computer in Pennsylvania and
 2 check my inventory and I could put a computer here in
 3 Richmond and check my inventory.
 4 A That's right. They would be checking one
 5 database.
 6 Q But I couldn't check the inventory of the Staples
 7 store down the street, down Main Street, six blocks
 8 away?
 9 A That's correct. You could not check Staples'
 10 warehouse.
 11 Q Why not?
 12 A It just wasn't a function of our product.
 13 Q Did you have the capability to communicate with
 14 Staples' computer systems; did you know what system
 15 they used or how you could communicate with them?
 16 A No.
 17 Q Now, if I had an arrangement with Staples, because
 18 they were my distributor and I wanted them to supply
 19 me, could I put one of my P.O. WRITER computers in
 20 Staples and ask them to use that computer to tell me
 21 about their inventory?
 22 MR. ROBERTSON: Your Honor, this is calling
 23 for speculation.
 24 THE COURT: Sustained.
 25 BY MR. DAY:

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1 Q Did P.O. WRITER users use the inventory check?
 2 A Yes.
 3 Q How do you know that?
 4 A We sold -- probably about 30 percent of our
 5 customers bought our inventory control. And again, I
 6 spent a lot of time in the last 23 years helping
 7 people. I was involved in sales. I was involved in
 8 implementation, training, and also customer support.
 9 So I helped a lot of these people understand the
 10 product and how you used and implemented it.
 11 Q We have been looking at the Guided Tour manual.
 12 That's the overview manual of the system?
 13 A Yes.
 14 Q You mentioned in addition there are a number of
 15 detailed manuals for each specific module in the
 16 system?
 17 A Right.
 18 Q Let's take a look at the requisitioning manual in
 19 the tutorial. That's Defendant's Exhibit 658. Bring
 20 that up, please, Bill. We are going to look first, I
 21 guess, at the table of contents. Tell us what this
 22 manual addresses.
 23 A This was the end-user's guide for the
 24 requisitioning software for P.O. WRITER PLUS Version 10
 25 DOS. And you would get this manual if you either took

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1 again, our requisitioning user could pull data from the
 2 P.O. WRITER PLUS item master and at their choice, take
 3 this information and merge it with their catalog
 4 information. So this is simply describing a simple
 5 method that we allowed or a method that we had to allow
 6 users to simply import large amounts of data so they
 7 didn't have to sit at the keyboard and enter
 8 information.
 9 Q Now, would you turn to Tab 6 in your binder,
 10 please, which is Defendant's Exhibit 320? And could
 11 you tell the jury what this manual is? It is Tab 6.
 12 A I'm sorry, is that the bottom of it, the SAP
 13 number?
 14 Q Tab 6. Tenth Edition, April, 1993, Software
 15 Revision 10.0. I think -- this is all in one exhibit.
 16 I'm sorry. Let me give you the Bates Number, Bates
 17 Number 4188. Do you have that?
 18 A Almost. I'm sorry.
 19 Q Turn to 4189.
 20 A Okay.
 21 Q Was this the requisitioning interface manual for
 22 Version 10?
 23 A Yes, it was.
 24 Q Of the P.O. WRITER.
 25 A Yes.

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1 a trial of our product or if you bought this product.
 2 And we would ship them out to the customer and our
 3 license agreement allowed for internal use. If they
 4 wanted to throw them on a copy machine, they could copy
 5 them and distribute them to our users if they wanted
 6 for internal use.
 7 Q Could you turn to Page 2-50, 2-50, which I believe
 8 is Bates Number 91.
 9 Pull up the first three paragraphs there. Ms.
 10 Fielder, could you read the first two paragraphs of
 11 this portion of your manual?
 12 A Sure. This is again part of our requisitioning
 13 manual. It says: Periodically, you may receive a new
 14 catalog from the purchasing department. In P.O. WRITER
 15 PLUS, the catalog is referred to as an item master and
 16 is comprised of two files. ITEM.DAT, and ITEM.KEY.
 17 If you receive a new item master file and wish to
 18 update your catalog, select Number 1 or two on the
 19 utilities menu. Selection 1, create a new catalog,
 20 will completely replace your catalog.
 21 Q So what does this describe? What is this talking
 22 about?
 23 A This is talking about a standard functionality
 24 that was in our requisitioning module at this point in
 25 time. And what this was allowing our user to do.

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1 Q And generally, what does this manual describe?
 2 MR. ROBERTSON: I'm sorry, I want to orient
 3 myself. I don't know what exhibit we are on.
 4 MR. DAY: Exhibit 320, Tab 6.
 5 MR. ROBERTSON: Bates Number ending?
 6 MR. DAY: Bates Number ending 4188.
 7 BY MR. DAY:
 8 Q Would you generally tell us what this manual
 9 addressed?
 10 A This addressed the P.O. WRITER PLUS Version 10
 11 Requisitioning Interface Program.
 12 Q And what was that used for again?
 13 A This is the program that we discussed in quite a
 14 bit of detail a few minutes ago where the requisition
 15 would come into our system and a requisition could be
 16 created and turned into a purchase order, or a
 17 requisition could be split into multiple purchase
 18 orders, or it could be consolidated. Multiple line
 19 items could be consolidated onto a single PO. This
 20 user manual is where we tell users in more detail than
 21 our high-level Guided Tour how to use our product.
 22 Q And could you bring up Bates Number 804101?
 23 4101. The Data Interface Utility in Version 10.
 24 A Yes.
 25 Q What was that?

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1 A I mentioned that our customers very early on in
 2 the development of our company had a desire to import
 3 data into our system if it was available. And
 4 sometimes when they were a new customer they would have
 5 files that were available to them from their mainframe
 6 or their minicomputer. So instead of keying it in,
 7 they would want to import it electronically. But one
 8 of the things that people also could use this
 9 functionality for, since 1984, is they could use it to
 10 import item information into our system. So as our
 11 product continued to evolve and our fields expanded,
 12 this module, of course, continued to be enhanced to
 13 accommodate the fields. So it was often used,
 14 particularly as requisitioning got more popular, to
 15 import catalog information into our product.
 16 Q So if you could turn just quickly, Bill, to Bates
 17 Number 4104, please. Does this specify the file
 18 specifications for importing data?
 19 A That's right.
 20 Q So this would be the information that a vendor
 21 would need to know in order to format their file so it
 22 could be imported into your system?
 23 A Right. What we are looking at specifically in
 24 this exhibit are a number of files that are part of our
 25 database. So ACCT.DAT, for example, if you are

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1 you are going to start bringing in item information and
 2 extended descriptions, we are telling them on this
 3 particular page how they are going to have to name the
 4 file so our program can go and get it and bring it in.
 5 So what this means to you is that if you were getting
 6 catalog information from any number of suppliers, you
 7 would provide instructions to your suppliers on how you
 8 wanted your catalog data. And if I was a buyer and I
 9 was negotiating with someone and I wanted this
 10 information, I would make it as part of our business
 11 arrangement. And that was common and it is common
 12 today.
 13 Q So is this the kind of information that if I
 14 wanted to construct or generate a catalog that I could
 15 transfer to or import into the P.O. WRITER system, I
 16 would need to know the file names of all these files in
 17 order to import my data successfully into your system?
 18 A And specifically, you would need the layout which
 19 is provided later on in the manual. And that's the
 20 kind of information our customers would give to their
 21 suppliers to get content information into our product.
 22 Q You made this information publicly available?
 23 A Yes.
 24 Q Just handed this out to people?
 25 A Absolutely.

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1 familiar with general ledgers, financial systems, this
 2 is the file that we maintain the account or general
 3 ledger information in. The file that specifically
 4 would relate to catalogs would be our ITEM.DAT which
 5 would be on Page 6.
 6 Q Turn to Page 6, just take a look at that. What is
 7 this specifying in Page 6?
 8 A When we get started working with a customer and
 9 they want to import information into our system, this
 10 particular page explained to them how we would begin
 11 the process. So it is telling them that you can create
 12 an ASCII file. And that maybe sounds scary, but it
 13 just stands for American Standard Code for Information
 14 Interchange. It is a standard flat file format that
 15 companies use to move information between computers.
 16 So what we are telling the user here is that's the
 17 format to use. So if you get data in an ASCII format,
 18 flat file, then we will map -- we will ask you to map
 19 it to a format that we specify in our manual, which is
 20 included in our manual, specifically if you were to go
 21 to, where is the file format, okay, if we go to our
 22 manual, Page 14, but the number at the bottom of the
 23 page is 4118. And we have that up on the screen.
 24 Q I guess this goes on for several pages, correct?
 25 A It does. It is telling them in this example if

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1 Q So they could generate catalogs that could be
 2 loaded on your system?
 3 A That's right. We would teach our customers, If
 4 you want this data, this is what your supplier needs to
 5 do. A lot of times we would say, Just give them the
 6 user's manual because their IT people need to know what
 7 format these files have to be in. They were free to
 8 give the data interface utility up if they chose to do
 9 it. If it could help them get their data, it was fine
 10 with us.
 11 Q One other question on that. Did you have your
 12 manuals, the manuals we have been looking at, the
 13 Guided Tour and the requisitioning manual and the
 14 interface and this file format specification, were
 15 these available in your booth at the NAPM?
 16 A We brought most of our manuals to the NAPM to
 17 display. And we have a big trade show booth we would
 18 use, and we would put them on shelves, but we didn't
 19 put these out on the aisle for people to take. These
 20 were basically maintained in the booth. But we would
 21 take them down at night. We wouldn't leave them so the
 22 competition could get our detailed users manuals. We
 23 would lock them up.
 24 Q If people wanted to buy these manuals from you,
 25 would you sell them to them?

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1 A It depends on who. I'm sure many a competitor has
2 figured out how to buy these through us, getting a
3 trial through their mother or best friend. If I knew
4 it was them specifically, I certainly wouldn't have
5 sold it to them. But that was common, also.

6 Q You would sell it to a customer?

7 A Sure, absolutely.

8 THE COURT: All right, we will stop here.

9 You all come back tomorrow at 9:30 and we will get
10 started. You all have a good evening and we will see
11 you tomorrow at 9:30.

12 (The jury left the courtroom.)

13 All right, we will be in adjournment until 9:30.

14 (Proceedings adjourned at 5:20 p.m.)
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1
2 IN THE UNITED STATES DISTRICT COURT
3 FOR THE EASTERN DISTRICT OF VIRGINIA
4 RICHMOND DIVISION
5 -----
6

7 ePLUS, INC.,

8 Plaintiff;

9 v.

CIVIL ACTION
3:05CV281

10 SAP AMERICA, INC., et al.

11 Defendants.
12 -----
13

JURY TRIAL - VOLUME XII

14 April 14, 2006
15 Richmond, Virginia
16 9:30 a.m.

17 BEFORE: HONORABLE JAMES R. SPENCER
United States District Judge
18 AND A JURY

19 APPEARANCES: JENNIFER A. ALBERT, ESQ.
THOMAS J. CAWLEY, ESQ.
20 MAYA M. ECKSTEIN, ESQ.
SCOTT L. ROBERTSON, ESQ.

21 Counsel for Plaintiff;

22 LLOYD R. DAY, JR., ESQ.
23 ROBERT GALVIN, ESQ.
24 DABNEY J. CARR, IV, ESQ.
25 ROBERT A. ANGLE, ESQ.

Counsel for Defendants.

JEFFREY B. KULL
OFFICIAL COURT REPORTER

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1 P-R-O-C-E-E-D-I-N-G-S
 2 THE CLERK: Case Number 05CV281: EPlus,
 3 Inc., versus SAP, America, Inc., the twelfth day of
 4 trial. Are counsel ready to proceed?
 5 MR. DAY: We are, Your Honor.
 6 MR. ROBERTSON: Yes, sir, Your Honor.
 7 THE COURT: Where is our witness?
 8 (The witness resumed the witness stand.)
 9 All right, let's bring in the jury, please.
 10 (The jury entered the courtroom.)
 11 All right, you all may be seated. Good morning,
 12 ladies and gentlemen. All right, Mr. Day?
 13 BY MR. DAY:
 14 Q Good morning, Ms. Fielder.
 15 A Good morning.
 16 Q I understand that this morning you have a live
 17 demonstration for us of the P.O. WRITER software.
 18 A That's correct.
 19 Q What are you going to demonstrate?
 20 A I'm going to demonstrate two modules that we have
 21 been discussing. The requisitioning module, and the
 22 requisitioning module is going to allow the user to
 23 create a request from catalogs, from multiple
 24 catalogs. I'm going to demonstrate the ability to
 25 convert those requisitions into one or more purchase

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1 save the code that the program actually creates and we
 2 save that in our archives as well as our user's
 3 manuals, and we discussed that already. But when we
 4 were contacted by the representatives for SAP, they
 5 asked us if we could find some original compiled code
 6 or what we refer to in our industry as executable, so
 7 that's when the programmers' programs go through a
 8 compilation process. It creates what are called
 9 executable codes. So what the attorneys for SAP said
 10 is can you please give us some original discs from your
 11 archives or from a customer or whatever. And we said,
 12 We don't have the executables in our archives, but we
 13 will see what we can do.
 14 We did contact our customers that we knew to have
 15 product at this point in time and we were able to get
 16 some of this software we are going to demonstrate this
 17 morning from one of our customers that is actually
 18 headquartered in Richmond.
 19 Q Some of the executable code?
 20 A That's correct. Some of the executable codes.
 21 That is, the purchasing module that you will be looking
 22 at is from our customer. So we were able to get
 23 vintage, if you will, software diskettes from the
 24 client.
 25 Q Is that a complete copy of the entire Version 10

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1 orders, to consolidate them. And also to demonstrate
 2 our purchasing module and inventory module
 3 capabilities.
 4 Q I'm holding a compact disc, a CD, Defendant's
 5 Exhibit 674. It is labeled Documents Produced by SAP
 6 to ePlus, January 20th, 2006, P.O. WRITER DOS Version
 7 10.
 8 A Yes.
 9 Q Does this CD contain the version of the P.O.
 10 WRITER software that you are going to be demonstrating
 11 for us today?
 12 A Yes, it does.
 13 Q And is the software that was loaded onto the
 14 computer that you are going to be using for the
 15 demonstration from this CD?
 16 A Yes, it is.
 17 Q Did you look at the files that are on the computer
 18 this morning to confirm that they are in fact the same
 19 as those from the CD?
 20 A Yes, I looked at it this morning.
 21 Q Where did you get the code that is on the CD, the
 22 software code that was on the CD?
 23 A We got the code from a couple of different
 24 locations. It is a practice of our company to maintain
 25 what's called source code. So as we build product, we

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1 software?
 2 A For the modules that they had licensed, yes. We
 3 got that. It did not include the requisitioning and
 4 requisitioning interface. We had to re-compile that
 5 from our source code.
 6 Q What is the date of the source code that is on
 7 this CD?
 8 A We provided to both -- everything that's on there
 9 is either from our customer, and if it is not from our
 10 customer and we had to re-compile the source code, we
 11 gave them a copy of the source code so they could see,
 12 you know, a programmer could look and see what it was.
 13 And it is all dated prior to June of 1993.
 14 Q So the source code from which you compiled the
 15 executables that you could not obtain from a customer,
 16 that source code is all dated prior to June, 1993?
 17 A That's correct.
 18 Q Does that mean that that source code was written
 19 and prepared by P.O. WRITER prior to June, 1993?
 20 A That's right. It was written and prepared by our
 21 programmers at our company.
 22 Q Was that source code used then to compile the
 23 executables that you will demonstrate?
 24 A That's correct.
 25 Q Okay. How was the source code translated into

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1 electronic code that can actually execute on a
 2 computer?
 3 A I guess to explain this, when people write
 4 programs, and I don't know how familiar you are with
 5 programming, but I'm going to assume that you are not
 6 for my explanation. When they write programs, they
 7 write in what's called a language. And at that point
 8 in time our programmers used a language called COBOL.
 9 They would prepare the programs in a way that a human
 10 being could use this COBOL language so it would make
 11 our product behave in a certain way. And when they get
 12 done writing their programs and they want the computer
 13 to be able to execute them, they use what's called a
 14 compiler. And a compiler is programs that are
 15 specifically made to take human readable programs and
 16 convert it down to a lower level that the computer can
 17 understand. So the end result of taking the source
 18 code, compiling it, is that we generate what we call
 19 executable code or code that can be executed by the
 20 computer.
 21 Q When you took this old source code, the source
 22 code prior to June, 1993, and re-compiled it, did that
 23 affect the date of the file of the executable that you
 24 will be using today?
 25 A That's correct. Some of the dates on the programs

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1 programs that you are going to see today as being
 2 written by people, that's really what you are looking
 3 at, so the demonstration that you are looking at today
 4 was built exclusively from source code that was built
 5 prior to the August time frame. It was actually prior
 6 to June.
 7 Q What was the next step?
 8 A The next step, as I mentioned, is once Rita got
 9 done and the other people writing the software, then
 10 they invoke a program called a compiler. And that
 11 compiler, in our case we used a compiler called MBP
 12 COBOL. It was just a particular brand of software that
 13 we chose to use. And the software then goes through
 14 this compiler, and the result then is again what I
 15 mentioned earlier as executable software once it has
 16 gone through the compiler.
 17 Q Did the compiler affect the functionality of the
 18 executable code? Did it change the code's
 19 functionality or behavior in any way from what was
 20 specified by the source code?
 21 A Not at all. No. It is simply taking the programs
 22 that exist and compiling them so that the computer can
 23 read them. And it is a common practice for us to
 24 maintain source code as a software publisher. Because
 25 if something were to happen to our business, a lot of

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1 are in December and January of this year. And the
 2 reason they are is it takes time to re-compile
 3 programs. So we started at the end of last year. Not
 4 we. Rita Carroll is the programmer that did this. And
 5 Rita Carroll has also been with us for 18 years and she
 6 was the woman that wrote a lot of these programs. Rita
 7 took the source code and started to re-compile and it
 8 took her several days to get through that process. So
 9 you would see by looking at our executable programs for
 10 requisitioning and requisitioning interface that some
 11 of those files had dates from last year and early this
 12 year. That's the reason why.
 13 Q Do you have a graphic to help you explain what
 14 code was re-compiled?
 15 A Yes, I do. I thought it might be easier to
 16 explain this if we went through a graphic.
 17 Q Could we have Fielder 3, please? Would you like
 18 to just simply use this to explain what you are talking
 19 about?
 20 A Sure. Looking at the top left-hand side, you will
 21 see the P.O. WRITER PLUS source code which was written
 22 by Rita Carroll and a couple other people during that
 23 period of time. And the modules that we are going to
 24 be talking about specifically are purchasing and
 25 requisitioning. So if you think in terms of those

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1 times our customers want to know that they can get the
 2 source code from our company because we are a small
 3 company. We only have, right now, 30 people, and at
 4 the time we had 13 people. It was common for us
 5 protect our assets, which it takes so much time to
 6 write these programs, we would protect our assets in
 7 two ways. One is, we would keep a copy of the source
 8 code off-site, which was just common, and the other is,
 9 and more recently now is we maintain our source code
 10 with another firm. But that's just common business
 11 practice in our industry, is to make sure that your
 12 programmers, if you lose this, don't have to start
 13 building this from scratch all over again. So you
 14 protect your investment.
 15 Q Okay. And then once you run the source code
 16 through the compiler you generate executable code?
 17 A That's right.
 18 Q Is the compiler like a translator translating from
 19 a human readable language to a machine readable
 20 language?
 21 A That's correct.
 22 Q With respect to the purchasing module, the
 23 executables you will be demonstrating today were all
 24 compiled by August, 1993?
 25 A They were. As I mentioned, we were able to find

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1 executable files from a customer here in Richmond. And
 2 we were advised that it would probably be a good idea
 3 to use the vintage software if possible, so we chose to
 4 give to the attorneys for SAP what vintage software we
 5 could possibly find. So what you will see today is the
 6 P.O. WRITER source code having different executable
 7 dates because they were compiled earlier.

8 Q Now, what about the requisitioning module?

9 A The requisition module, again, I mentioned that
 10 when you take your source code and you re-compile it,
 11 what the computer will do is put a new date and time
 12 stamp on it so the software that we are going to use
 13 this morning was re-compiled using 1993 code, but it
 14 was re-compiled at the end of last year and the
 15 beginning of this year by Rita Carroll. And again, the
 16 end result is the same programs. They don't change
 17 their qualities or their functions or their
 18 capabilities unless the programmer changes them. But
 19 we have provided the actual 1993 source code to the
 20 parties.

21 Q So when the code is compiled, the compiler puts a
 22 date stamp into the --

23 THE COURT: We just went through this. Come
 24 on.

25 BY MR. DAY:

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1 Q The process of importing the data, what date stamp
 2 got placed on the data files that were imported?

3 A It would have been whatever date Rita imported
 4 it. I'm not sure of the date.

5 Q I'm not asking what the date is, but it is the
 6 date she imported it?

7 A Yes, she used the data interface to import it.

8 Q Do we have a graphic to illustrate the situation
 9 with the data?

10 A Yes.

11 Q 4, please.

12 A What this is going to show essentially is again,
 13 you will have a database that has dates on the files
 14 from this year because we have imported the
 15 information. What you are going to see happen during
 16 the demonstration is the dates on several of those
 17 files are going to change just through the fact that I
 18 am going to be keying in information, saving
 19 information. It is going to be updating the computer's
 20 tables. Some of the files, probably not all, but some
 21 of the files are going to be getting later dates just
 22 through use of the demonstration this morning. So I
 23 can graphically, what we thought might help is just to
 24 show how data that exists now can come through our
 25 product, be edited and saved, and the end result is it

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1 Q So what about -- you talked to the programs, the
 2 dates in the programs. What about the dates on the
 3 data files for the demonstration?

4 A Data files are different. Yesterday I was
 5 describing to you that we had data files in P.O.
 6 WRITER. And at one point in the discussion yesterday,
 7 we were talking specifically about our item master, and
 8 I mentioned that it is a combination of two files that
 9 make a file, logically, in our product. There is a
 10 data file that contains the data; there is a key file
 11 that contains indexes so that together the computer can
 12 find data very quickly in the database. So what you
 13 will see is you will see dates on our files that are
 14 more recent. The way that we put this data together,
 15 the way Rita put it together, is in order to keep these
 16 people from having to key in a lot of information to
 17 start to run our product, it was really a courtesy of
 18 Rita, who is a very courteous person, to use some data
 19 that we had. So two of our customers, we used their
 20 data and combined it and imported it in strictly as a
 21 courtesy so they didn't have to use data entry. Those
 22 two customers are the Job Corps and the other customer
 23 was United Cerebral Palsy who had their data in their
 24 archives along with our software. So we used it to
 25 save some time for them.

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1 would be saved with a new date and time on that
 2 particular time.

3 Q Now, we have talked about the program files,
 4 talked about data files. Do any other files in this
 5 demonstration have dates that are after August 10th,
 6 1993?

7 A There are a couple. The customer that we got the
 8 information from had, we call them, print programs.
 9 Let me step back for a second and explain. When people
 10 bought our product, they could buy our product right
 11 out of the box, if you will, with a PO form that was
 12 designed so that when you said, Print my purchase
 13 order, it would print the purchase order to a printer
 14 and it would print the lines in the heading. So we
 15 assumed that when people bought our product, they
 16 didn't have a pre-printed form to match our software.
 17 We also sold our software through a trial. When they
 18 were using our product, the default would be just to
 19 print everything on plain paper. But most customers,
 20 because we dealt with medium and large-sized companies
 21 and law firms and that type of thing, they have a
 22 different image they want to portray. So it was very
 23 common for them to take -- they had two choices. They
 24 could either use a print routine out of our library.
 25 We offered five forms they could choose from. When

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1 they took the trial, we actually sent them physical
 2 copies of the form because if they liked one, they
 3 could give that copy to their vendor and have the form
 4 made. At no cost if they bought our product, they
 5 could get one of five forms and change the output.
 6 When they said P to print the purchase order, it would
 7 come out on a pre-printed order. That was one way
 8 people to use our software.
 9 The other is we would do customization on a pretty
 10 regular basis to do their PO printing. This particular
 11 customer we got the software from chose one of those
 12 five programs. Specifically, they chose one that we
 13 referred to as Form Number 5. So the way we ship our
 14 product in the summer is, we release our product, we
 15 start shipping to customers that have no customization
 16 and no print routines. We call them vanilla
 17 customers. We have done this forever. The reason we
 18 do it is if we happen to have not caught all the bugs
 19 in the software, we want these vanilla people to start
 20 using the product first before we start doing any more
 21 shipping and doing any customization upgrades. Because
 22 what we do, we do upgrade their software
 23 automatically. This particular customer was not
 24 shipped our software until August because they had this
 25 Number 5 form. And we were waiting to make sure

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1 just by looking at the bios on the computer, to be
 2 around 1992. And specifically, we are going to be
 3 running an operating system that was used at that point
 4 in time. Microsoft had released their Microsoft Disk
 5 operating system or DOS operating system in March of
 6 1993, so we are going to be using that operating system
 7 which is consistent with the operating system that our
 8 customers would have used at that period of time. And
 9 that computer was consistent with that period of time
 10 as well.
 11 Q Is that Microsoft DOS Version 6?
 12 A 6.0.
 13 Q Is this computer set-up that you are going to be
 14 using typical of the computers that your customers used
 15 prior to August, 1994?
 16 A This would be a common workstation.
 17 Q Before you start the P.O. WRITER system, can you
 18 tell us if you configured the system in any particular
 19 way?
 20 A I did not configure the system in any way. We
 21 went through this whole compilation process and then
 22 used the customer's data. So whatever the customer's
 23 data had in there is what's in there but I haven't done
 24 anything to the software other than what I have
 25 described previously.

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1 everything was settling down.
 2 The source code that goes into printing their
 3 purchase order form was developed in April of 1993. It
 4 is just that it wasn't what we call link edited or put
 5 together until we shipped our product in August. So we
 6 linked it on August 18th and shipped it on August
 7 23rd. So there are some files that have a little bit
 8 later date in August for that reason.
 9 Q Okay. Now, is this P.O. WRITER PLUS Version 10.0
 10 you are going to be demonstrating this morning
 11 identical in functionality to the systems purchased and
 12 sold, purchased, and its customers used, prior to
 13 August, 1994?
 14 A Yes.
 15 Q And is it identical in functionality to the
 16 PurchasingNet systems that PurchasingNet sold and the
 17 customers used prior to August, 1993?
 18 A Yes, it is.
 19 Q On what computer will you be performing this
 20 demonstration?
 21 A It is going to be on this particular PC right here
 22 which happens to be a model called a 486, which is a
 23 vintage computer.
 24 Q Vintage meaning?
 25 A Prior to, well, in this case, this computer looks,

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1 Q Now, you testified earlier that, if you recall,
 2 that P.O. WRITER had added four user-defined fields.
 3 A Yes.
 4 Q And that these user-defined fields could be
 5 configured in various ways.
 6 A Uh-huh.
 7 Q In particular, first of all, did some of your
 8 customers configure user-defined fields to identify a
 9 source and an alternate source?
 10 A They did, yes.
 11 Q How do you know this?
 12 A Because I helped them.
 13 Q Did you use P.O. WRITER to perform demonstrations
 14 such as the demonstration you are presenting to the
 15 jury in the early 1990's?
 16 A Yes, I did. I spent most of my time helping
 17 customers either -- I did training for people, I did
 18 customer service on the telephone for them, pre-sales
 19 support, but my job primarily has always been with the
 20 company to help the customers.
 21 Q Were any of those demonstrations ever recorded?
 22 A Yes, we did record a demonstration of some
 23 training that I did.
 24 Q In those demonstrations, did you ever instruct
 25 customers on how to use user-defined fields?

5 (Pages 2106 to 2109)

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1 A Yes, we did. It was common.
 2 Q Let's just briefly watch Defendant's Exhibit 770,
 3 which is a brief video clip of a training seminar you
 4 conducted. After we see this, could you please tell us
 5 what we saw?
 6 A Uh-huh.
 7 (Videotape played.)
 8 (Videotape ended.)
 9 Q Now, what was that video?
 10 A This is a small clip of a training videotape that
 11 I did in California. It was in February of 1993. And
 12 this particular version of the software was Version 9.
 13 So it was, again, part of our business practice to
 14 conduct some training courses across the country.
 15 Because a lot of times we didn't meet our customers at
 16 all because they used a trial. They would load the
 17 software themselves. We would approach them on how to
 18 use the software on the telephone, And that was fine
 19 for most people. But what we liked to do when we had
 20 major releases of the software or just in general so
 21 people could get more value out of the product is we
 22 would conduct somewhere between six and eight training
 23 courses per year in various spots of the country. So
 24 this particular course happened to be in Orange County,
 25 California in February of 1993.

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1 Q Whose voice was the man?
 2 A That was my partner and husband, Tim McEneaney.
 3 When I asked Tim how else do they do it, Tim was the
 4 person in the room recording the video during that
 5 particular session.
 6 Q In the demo, have you configured the user-defined
 7 fields for this demo?
 8 A I have not. If there is any configuration it
 9 would have existed from customer data, but I haven't
 10 configured anything.
 11 Q Bill, could you please start the computer? And
 12 Ms. Fielder, could you demonstrate how you would use
 13 P.O. WRITER to search for and select items from
 14 multiple product catalogs, build a requisition, build a
 15 purchase order from that requisition, and perform an
 16 inventory?
 17 A I have to put my training hat back on. What I
 18 would like to demonstrate for you, again, is really two
 19 things. And in order for this to make sense, I think
 20 that you have to, if you would, look at the world the
 21 way we approached it as a company. So we really dealt,
 22 as I said yesterday, with different user groups. When
 23 we started our company, our goal was to help
 24 purchasing, help get them out of the paper chase, help
 25 give them reports, help them negotiate. Then as our

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1 company built on, we built on more modules and grew our
 2 business, we added other modules. As we added modules,
 3 we extended the reach of our product to what I call
 4 end-users, or you might refer to them today as
 5 requisitioners. But requisitioners really are just
 6 people that want something. So I have a group, the I
 7 Want Something. I want an item, I want a service. So
 8 that's the group I'll refer to as requisitioners. And
 9 then I have another group that I will refer to as the
 10 purchasing people. For the purpose of this
 11 demonstration, that purchasing person will also be able
 12 to check inventory.
 13 So let's start with the I Want Group. And what
 14 people would do when they used our product is, on a
 15 computer just like this, which was common, is to start
 16 our product they would simply put in RR to start the
 17 requisition. It was just a command that was used. So
 18 this is the screen that our customers would see. And
 19 you have seen this screen in our documentation, I
 20 think, earlier. I believe yesterday. And the very
 21 first thing that they would do to begin the
 22 requisitioning process is they would put in a 1 and
 23 press the enter key. So it was a DOS-based system. It
 24 was pretty simple to use. What you will notice on this
 25 screen, it is a menu. And what it allows the user to

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1 do is make a couple of choices. They can create a
 2 requisition from a catalog. They can create what we
 3 call a free-form requisition. And yesterday I
 4 mentioned that if a user didn't have any idea where to
 5 get something or they might be wanting to make a
 6 request for an item they probably aren't going to buy
 7 frequently, so therefore they didn't want it in the
 8 catalog, this would be the feature that they would use
 9 for that. And then there were see other features and
 10 we will talk about some of these this a few minutes.
 11 Let's start with Number 1. And this screen, you
 12 will notice at the top it says, Create Requisition from
 13 Catalog. And what we are saying to the user is how
 14 would you like to get started. And the first thing
 15 that the system was doing was positioning the cursor by
 16 default in that catalog ID field because it is saying,
 17 Do you want to start with a catalog or do you want to
 18 do something else? If our user happened to know their
 19 catalog ID, they could key it in. If I knew that I
 20 wanted to buy from Home Depot, I could key in Home
 21 Depot. Let's say that I didn't. I'm a brand new
 22 person to the company and I want to see what my choices
 23 are. If you will look at the bottom of the screen you
 24 will see some words down here where it says Press
 25 Shift-F4 to view valid catalog ID's. One of the things

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1 we needed to do as a software publisher was try and
2 build software that was easy for people to use. So it
3 was very common for us using the DOS product to put in
4 helpful hints where we could just to help the user
5 along.

6 So the user would put in, position their cursor,
7 and then they could use that Shift-F4 combination and
8 open up a window. And that window is listing what we
9 call catalog ID's. And these catalog ID's, as I
10 explained yesterday, are part of our item master file.
11 They are one of the fields. So you can put something
12 in that field and as soon as you do, it is available as
13 a catalog in our product. So it made it really easy
14 for people to maintain data. If I wanted to see more,
15 I could simply use the F9 key, as we show you in the
16 bottom, to page forward or page back. So the system is
17 showing me what's available at this moment in time. Or
18 I can page back. So I can select Home Depot by
19 highlighting it, by using the down arrow. And I used
20 Shift-F3, which is the key combination to select that
21 catalog and pull it forward. So I've told the product,
22 Okay, you have this item master file. I'm going to
23 start to slice this. I'm now saying, Only show me
24 items that have Home Depot and that catalog ID field in
25 the item master. So I'm starting to filter, if you

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1 easy for people. And the system would display what we
2 refer to as the requisition header screen. So I have
3 gone through the identify any catalog, picked out a few
4 items. Tell me where you want to have this sent and
5 who you are. Because I'm purchasing, and if I get your
6 request, I want to know who sent it to me, when do you
7 need it, where do you want me to send it. So this is
8 the portion of what used to be a requisition form that
9 our customers would use. So again, if I am a new user
10 and I don't know what my choices are, I can simply use
11 my Shift-F4 combination. I can select my
12 requisitioner, so today I'll be Roseann. And these
13 fields were optional. The user could fill them in or
14 leave them blank. Some of the fields we did ask the
15 user to fill in again so when the request got to
16 purchasing, we had some idea of what the real
17 requirement was.

18 One of those fields was the due date. We would
19 say, When do you want it? And you could just tell us
20 in days, weeks, months, or years when you wanted it and
21 our system would calculate for you the due date. I'll
22 say, I want this in two days. And the system is
23 calculating two days from today for me. Just the kind
24 of enhancement we might have added to the product as
25 one of the features as the product continued to build.

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1 will, on how to select my items.

2 So if I don't know what I want, I just want to
3 look at what's in the catalog, I can say, Yes, show me
4 everything that's in the catalog and show it to me in a
5 couple of different ways. I can look at it by item; I
6 can look at it by item description; I can look at it by
7 commodity code. So if I am a user, I might just want
8 to put a yes in the All field and see what's in that
9 catalog for me. I could do that by simply pressing the
10 enter key. The system is sorting the information for
11 me in item number sequence because that's what I asked
12 it to do, use the item number and show me everything.
13 You can see that there are items that I believe in this
14 case the Job Corps people were buying from the Home
15 Depot. So they have got some carpet strips and drywall
16 screws and joint compound and items that would have
17 been appropriate for the people at the Job Corps. So I
18 can page forward or page back.

19 If I wanted to request one of these items, it was
20 really very simple. All I needed to do to request was
21 to put in a quantity next to the item that I wanted.
22 And I could continue that way. I could page forward,
23 and tab down. And I could, when I was done, I could
24 press the F7 key, which is a note that we have at the
25 bottom of the screen. We are trying to make it very

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1 I also would like to know where would you like it
2 shipped. So I can do that by using the look-up again.
3 So I would say like Acme. If I wanted to suggest a
4 vendor, I could. This field is left blank, so again I
5 want to make sure it is clear to you what we can and
6 cannot do. I was asked yesterday, Is your catalog
7 always tied to the vendor and is it always a
8 requirement? I said no. By design, we made our system
9 very flexible. I used the Home Depot catalog to create
10 my list, but now, I am not forced to buy from Home
11 Depot. But let's say I'm a requisitioner and I say.
12 I'd like to suggest -- which is exactly why we put that
13 word up there -- I want to suggest a supplier. That
14 doesn't mean that purchasing, the professionals that do
15 this for a living, have to take my suggestion, but I
16 will suggest. So I'll suggest Home Depot. And if I
17 didn't know the name or the code of Home Depot, I could
18 have come in and said, I think it either is Home or,
19 let's see, nope, didn't have that. Maybe it is
20 something else. Let's see. Oh, okay. It is the Home
21 Depot. That's how we have this supplier in our
22 database. HOME is the code for that supplier. We gave
23 the user the ability to take a look at suppliers that
24 were in the file.

25 Now, again, if I wanted to make some suggestions

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1 like ship via, I might have an idea, I want to ship via
 2 truck, for example, or I want, you know, to market for
 3 something or bill to a certain location. But if I
 4 didn't want to put anything else on my request, I
 5 wasn't required to and I could simply press the
 6 function key. And in this case I'm going to use U to
 7 update and I'm going to create my requisition. So this
 8 is a little bit of a slow process. And thanks for
 9 bearing with me, but I just wanted to take you on the
 10 first trip through what it felt like to create a
 11 request from your first supplier. It can go faster.
 12 As users became familiar with the system, and it
 13 literally took one or two trips through creating
 14 requisitions and they got pretty good at it. What they
 15 could do then is if they want to create another
 16 request, they could do that using the same exact
 17 methodology we used before.

18 So let's say they want to use a catalog called
 19 Kotzen. They don't want to look at everything in
 20 Kotzen by item this time. Let's say they want to look
 21 at everything by commodity. In this case, they happen
 22 to have commodities in Kotzen, but they didn't have to
 23 have a commodity code. It wasn't a requirement. If
 24 there wasn't a commodity code in there, it would have
 25 left the code blank and it would have risen to the top

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1 compound, which the 258725 was from Home Depot. I
 2 pointed out earlier the KNO11 was from Kotzen. There
 3 was no limit on only keeping one type of item in our
 4 system. You could put multiple suppliers for the same
 5 item in the product. The only thing you needed to do
 6 in our product was to make that item number unique,
 7 which was very common because distributors very often
 8 used their own coding scheme on how they coded items.

9 Let's say I want to come in again and select,
 10 leaving my catalog ID blank, and I want to put various
 11 types of items on this request. So I'm going to come
 12 in on this request and I'm going to order some
 13 clamshell moldings. That's moldings for a building.
 14 And I might also order some carpet strips. I'll be
 15 Roscann for no particular reason other than she is the
 16 only girl on the list. And I'll say, I want it in two
 17 days.

18 And in this particular case, I'm not going to
 19 suggest a vendor. So earlier I said I'd like you,
 20 purchasing, to please source this from Home Depot. But
 21 in this case I'm saying, I don't care. All I know is
 22 what I want. And you are purchasing, you are the
 23 people servicing my needs, you will take care of it for
 24 me. So I'll just leave that blank. Somebody in
 25 purchasing can figure that out and they will take care

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1 of the list, but it would not have kept the user from
 2 using the product for selecting the item. So in this
 3 particular case you can see that Kotzen has several
 4 items. Some of those are similar to what was available
 5 in the Home Depot catalog. So they have at Kotzen an
 6 item number called KNO11, which is joint compound, as
 7 you may recall on a prior screen, but the Home Depot
 8 people also supplied that particular item. We will
 9 look at this in just a minute.

10 Now, so far we have been doing look-ups starting
 11 with a catalog. But it was pretty common that people
 12 had no idea how purchasing organized their catalog. So
 13 they wanted an easy way to just say, I want something,
 14 without having to know that catalog and searching by
 15 the catalog. So again, our approach, which we think is
 16 a better approach, is to say to people, You don't have
 17 to tell us what you don't want, just tell us what you
 18 would like. So a method for telling us what you would
 19 like, we were looking at the joint compound. I might
 20 want to look at any item that's in my database. So you
 21 will notice I'm leaving my catalog ID field blank and
 22 I'm saying, Give me any item in P.O. WRITER's database
 23 that has a description with JOIN in those first four
 24 characters. Now you are seeing the system display for
 25 you four possible choices. We had the item, the joint

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1 of me. I'm going to come down to the function, press U
 2 for update. And it is going to tell me, I forgot my
 3 Shift-F2 code. Let's say this time I'm going to ship
 4 it to Robin Hill. Let's see if it will let me save it
 5 now. And it will. So I did fill in the required
 6 fields, requisitioner code, due date, and ship to, and
 7 that's all I had to do to prepare my requisition.

8 Sometimes requisitioners change their mind and
 9 they want to do other things. They maybe want to add
 10 items to the requisition; they might want to change the
 11 item that they have selected. And our product was
 12 designed to allow them to do that easily. And the way
 13 that they would do that is by selecting Number 4, which
 14 is the choice for display and change requisition. What
 15 you are looking at now is a list of requisitions that
 16 are in the system. And some of those were created by
 17 our people at the end. When they imported the data,
 18 they ran through some flow tests. I know Rita did
 19 that. And what a flow test is, in computer software,
 20 you just run data from the beginning through the end
 21 just to make sure that the system is tied together and
 22 that nothing is broken.

23 So those particular requisitions that you are
 24 looking at, the 6789, were put in by our people in our
 25 company just to insure after they got things compiled

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1 and hooked back up that the product was still working.
 2 The two requisitions that are at the bottom, 4-13,
 3 today's date, were the ones I just created. And I
 4 could look at either one. And the way I would do that
 5 is putting a YNY next to the item I was interested in
 6 or key a requisition number in the header. And looking
 7 at the bottom I can see that if I Shift-F2, I can move
 8 to the current lines that are on my requisition. What
 9 you will see at the bottom of the screen is we had some
 10 choices. Again, as a user, I could use a key
 11 combination that you are seeing displayed down here.
 12 In the middle of this screen on the bottom it says
 13 Control-F5 for extended description. I could add
 14 additional free-form text if I chose. I could display
 15 the catalogs. I could press F7 when I am done or
 16 Shift-F4 for more item information. So if the user
 17 wanted to learn more about the items they had put on
 18 the requisition at this point, because it is a limited
 19 amount of data, they could do that. And they could use
 20 this Shift-F4 combination in many places in our
 21 product, including when they were creating the
 22 requisition originally, to see information about the
 23 item, such as the unit of measure it was sold in, and
 24 also the pricing.
 25 So again, a catalog would include item

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1 what we are looking at is the clamshell molding,
 2 pricing information, so I can see my standard cost of
 3 \$.55.
 4 We have talked quite a bit and looked at a
 5 videotape about user-defined fields. And if you look
 6 at the bottom right corner of this particular screen,
 7 you will see the words user-defined 1, 2, 3, and 4.
 8 Those were the four fields that I was discussing in the
 9 training tape that was shown a few minutes ago. And
 10 when I was teaching people how to use the product and
 11 when our support people were helping people, we would
 12 suggest uses for it. Because we would get questions
 13 from customers like, Where do I put the engineering
 14 number, where do I put the manufacturer number? How
 15 will I tell if I can get this from somebody else? So
 16 we had this flexible approach because we serviced
 17 service companies and manufacturing. And we said,
 18 re-label it. Call it anything you want, or nothing.
 19 You don't have to use it. It is not required. But if
 20 it helps you to use this product more comfortably, use
 21 it. So those particular fields could be re-labeled and
 22 they could be used for reference.
 23 Q Re-labeled as what? What are the possibilities?
 24 A Anything. It was up to the user. The field
 25 itself, the label itself was limited to 20 or 25

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1 information, description, unit of measure, pricing,
 2 commodity, and some basic fields that you would need to
 3 manage item information in a catalog. So if you look
 4 at the bottom of this window that I have open, you will
 5 see the unit of measure for this particular item is
 6 15156485 is in feet and you will see the unit price is
 7 \$.44 per foot. Now I might want to change my mind.
 8 And you saw that we had different items available both
 9 from different suppliers, so if I wanted to look and
 10 see what other clamshell items I have, I typed in CL,
 11 so I said to P.O. WRITER, Give me anything that has a
 12 description starting with CL. I can see that I also
 13 have a clamshell molding that has an item number of
 14 KN014, and again if I wanted to view that item, I
 15 certainly could by simply pressing the key to display
 16 the content of what we called the catalog.
 17 So you will notice at the top of the screen it was
 18 called catalog display. I want to take you back to a
 19 comment I made yesterday just to reinforce this. In
 20 our P.O. WRITER system, in the purchasing module we had
 21 an item master. In the requisitioning system, we
 22 called that a catalog master. And you could move, as
 23 the purchasing department built up contracts and gave
 24 you good information, you could, if you chose, import
 25 that information into your catalog. So in this case

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1 characters. I could doublecheck. But they could call
 2 it anything that was meaningful for them, or nothing.
 3 They did not have to use it.
 4 Q In the video you just saw, what did you say users
 5 typically used it for?
 6 A A lot of customers would use it to indicate a
 7 primary supplier and an alternate supplier. And it was
 8 pretty common for them to put in what I refer to as
 9 cross-reference information. So if I wanted to buy an
 10 item from another supplier I could see easily who do I
 11 buy it from and what do they call it, what is the item
 12 number this alternate suppliers calls it. That was a
 13 very common implementation and an implementation we
 14 were teaching our customers in the 1990's. And today
 15 we use the same approach.
 16 So if I want to choose this alternate item, I can
 17 do that by simply selecting it. And you will notice
 18 that the system brought that item forward. So now I
 19 have clamshell molding for KN014 instead of the
 20 original item number. So if I am done, I can press F7,
 21 or I can continue to add more items to my requisition.
 22 So let's say I want ten pencils. And I might look and
 23 see if I have pencils. I don't know if I do or not,
 24 but let's see. Doesn't look like I have pencils. So I
 25 may have to do a free-form requisition. While I'm

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1 here, I'm reminded that I might want to order some
2 plastic wrap. I forgot I needed that. Let me add that
3 to my requisition, too.

4 Q Plastic wrap or aluminum foil?

5 A That's fine, whatever. I'm just going to add
6 another item. The point I'm trying to make is the user
7 wasn't limited to a type of item that they put on our
8 requisition. They weren't limited to starting with a
9 catalog and only putting those items on our
10 requisition. We said to the user, Order anything you
11 want. Mix up items. We don't care. Mix that chair up
12 with the drill bit. It doesn't matter to us. So I'll
13 just do another example for you. Let's see if I have
14 anything that starts with pencil. I may or may not.
15 Okay, I have pens and not pencils. My memory is not so
16 good when it comes to other people's information.
17 Let's pick what we want. Okay, now you see we have
18 clamshell moldings, carpet strips, aluminum foil, and
19 pen. This information was on the original requisition.
20 As you recall, I was editing one that existed.

21 So let's go down to the function area and press U
22 and update. So we have got two requisitions that are
23 in our system. And we have used a couple of different
24 methods for creating them. Once the requisitions were
25 the way the user wanted them, they would send them to

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1 with a supplier. They could search that catalog. They
2 could search that catalog using three methods: by item,
3 by description, or by commodity. They could also leave
4 the catalog ID blank and they could search in our
5 database across catalogs by simply looking for an item
6 based again on item description or commodity. They
7 could build a requisition. There was no limit to the
8 combination of items they could put on the
9 requisition. So they could put a chair and a desk and
10 paper clip if they wanted, it didn't matter. When they
11 were done, they sent the request to somebody in
12 purchasing that could help them.

13 And along the way, we gave them information that
14 they could look at if they chose. So they could look
15 to see, well, if I use my user-defined fields to
16 indicate an alternate supplier, then I could have
17 visibility only against -- it's visibility for the user
18 only on who else might be able to help them.

19 So let's change roles, if you will, and now become
20 the person that's in the purchasing department. So
21 I've come to work in the morning, and if I were in
22 purchasing, I would type in P.O. WRITER to begin my
23 day. And what the system would do in this version, and
24 you will note that this is our main menu of P.O.
25 WRITER. You will notice that this is our copyright

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1 purchasing. So this is an identical concept to a user
2 having filled out a paper request, and said, Here, put
3 this in interoffice mail or drop it off in somebody's
4 in-box on your way to the cafeteria. This is an
5 electronic version of saying, Send my stuff to somebody
6 that can help me. That electric version in our product
7 at this point in time was to use Number 5. Again, you
8 are seeing the request that we looked at a little bit
9 earlier. The two on the bottom are the ones we created
10 this morning. I'll say, I'd like to send both of them
11 to the purchasing department. And it is very simple to
12 do that by selecting them, and I'll put in P to process
13 and you will see that the system will remove them from
14 the list and send them to purchasing.

15 So I'm back at the main menu of the requisitioning
16 system. Let's say I'm an engineer and I'm done
17 requesting what I want and I'm going to go back to the
18 business of engineering software. So I'm going to exit
19 and go back to my regular job because I've told you
20 what I want in and my request has gone to purchasing.

21 So what you have seen so far, just to recap, is
22 that the user or the I Want person could start our
23 product and go in and say, I want to create a
24 requisition from a catalog. They could select a
25 catalog. That catalog may or may not be associated

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1 there, 1993. This is our Version 10. And our company
2 was called American Tech at the time.

3 The very first thing I might do to remember the
4 end-user is I might go to 14 and let's see what
5 requisitions I have waiting for me that I can help
6 people with. If I enter 14 and press the enter key, I
7 would get some choices. Yesterday, I mentioned that
8 our customers could be on local area networks. They
9 could be tied together on a wide area network. Or they
10 could use our product called remote requisitioning,
11 which would allow them to have a stand-alone computer
12 in a plant or a quarry or whatever, and they could
13 create the requisition stand-alone and send them to me
14 via modem.

15 So the choices that you are seeing here are about
16 delivery choices. I can say Number 1, receive a remote
17 requisition and the system would retrieve requisitions
18 that had been sent in from the field. The second
19 choice is the choice that allows you to take a
20 requisition and convert it directly to a purchase
21 order. Let's do that first. And the way you do that
22 is by selecting Number 2. So Number 2 is showing us,
23 this particular list is showing us requisitions that
24 are sitting in the requisition file right now, the
25 requisition interface file specifically. And the one

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1 that's on the top of the list was created by Rita. And
 2 the two that are shown below were created by me this
 3 morning.
 4 Let's look first at the Home Depot request. You
 5 will notice that the vendor is Home Depot, but recall,
 6 that was a suggested vendor. Okay? So that doesn't
 7 mean that -- you know, I do purchasing for a living.
 8 Maybe we are having trouble with Home Depot and I don't
 9 want to source that item from Home Depot because they
 10 are giving us difficulty with returns, for example. Or
 11 maybe everything is just great. And what I want to do
 12 is go ahead and place this request with Home Depot. So
 13 I use the Shift-F3 combination and it took that
 14 requisition which you saw me create earlier this
 15 morning and it put it on to what we refer to as our
 16 purchase order input screen. If I wanted to change the
 17 supplier, I could change the supplier. If I wanted to
 18 leave it the same, that would be fine. So as a buyer,
 19 I might come through and tell them I want them to ship
 20 it by best way. The FOB is a term for purchasing. I
 21 might say shipping point. I'll indicate my code. I'm
 22 Buyer Number 1. And I'll go to the function area.
 23 I'll put in a U. And I've taken my requisition that I
 24 have redistributed and turned it into a purchase
 25 order.

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1 one-to-one conversion. I'll use a different feature
 2 which takes me back to my requisition interface screen.
 3 The third choice that we gave our customers at
 4 this point in time was to let them take a requisition
 5 and to split it into multiple orders, or we could also
 6 take multiple requisitions and consolidate it onto one
 7 PO. Let's take a look at how that function works.
 8 What this screen is doing is splitting the requisition
 9 lines for you. And it is saying, Who would you like to
 10 buy this item from? So you could as a user of the
 11 product, you didn't have to be a buyer to do this, very
 12 often they would use administrative help to do this
 13 splitting and Consolidating function and the buyer
 14 would pick it up later. You could use this function to
 15 specify a supplier, tell us where you want it shipped
 16 to. If you wanted to change the buyer, you could. So
 17 the data that was in this blue area could be updated by
 18 the user at this point.
 19 There is a feature in the product, this is a wild
 20 screen, but it gets your attention. If you look at the
 21 top left-hand corner you see this key called F6. This
 22 is a key that would -- it is called Assign Vendors and
 23 Buyers. The purpose of this function was to help the
 24 user. So we are trying to, you know, get them out from
 25 underneath paper, make their life easy. So if I press

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1 Q It is added into the purchase history file.
 2 That's the message we see at the bottom there, purchase
 3 order added?
 4 A Yes.
 5 Q That indicates that this has been transferred or
 6 has generated a purchase order?
 7 A That's right. This has generated a purchase order
 8 in our system. So how you printed your PO was up to
 9 you. I mentioned this morning our customers could
 10 print it on plain paper. It didn't matter. But the
 11 point I'm making here is the requisition with very
 12 little intervention could be turned into a purchase
 13 order and the user had some flexibility along the way.
 14 They didn't have to use Home Depot. In this case, I
 15 chose to because I was fine with that.
 16 So let's go back to the list of other requisitions
 17 that are available for us. And I created Requisition
 18 11 this morning. And I can choose that. And I look at
 19 this and say, Oh, I'm not going to buy all these from
 20 the same supplier. That doesn't make any sense.
 21 Because I have clamshell moldings and carpet strips,
 22 well, that might be fine for one supplier. Aluminum
 23 foil and a pen, probably this might actually lead to
 24 going to three different suppliers because that's
 25 perhaps what makes sense. So I'm not going to do a

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1 F6, the system is going out to the database and it is
 2 trying to help me. Well, it was able to help me a
 3 little bit. If you look at the third item on this
 4 particular page, you will see that this carpet strip
 5 had some prior activity in our database from Home
 6 Depot. And when I say prior activity, yesterday I was
 7 saying that our item master file also included ten
 8 fields that the system would dynamically update for the
 9 user. So as I was just doing my job, behind the scenes
 10 P.O. WRITER was updating these ten fields. And these
 11 ten fields could be updated for information associated
 12 with contracts or blankets and releases or a regular
 13 purchase order. So if you had any kind of activity in
 14 your database, our product tried to help recommend a
 15 supplier and a buyer based on the history in your
 16 system.
 17 So we thought that this was a more efficient way
 18 for our customers to work instead of having to have a
 19 lot of maintenance nightmares where they have to
 20 maintain these complicated catalogs and they have to
 21 associate a buyer with everything. And then when
 22 buyers changed, at that time it was difficult to keep
 23 things maintained, so we just let the system try and
 24 help them. That was our design approach.
 25 Q In this instance, when you went to get help

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1 finding a vendor, the system pulled up a vendor from
 2 whom that item had previously been purchased?
 3 A That's exactly what it is doing.
 4 Q Now, if you had configured your system using the
 5 user defined fields to suggest, to associate a vendor
 6 with an item, to associate an alternate vendor with an
 7 item, what would have happened?
 8 A Nothing different than what happened right here.
 9 Those user-defined fields in the item master file were
 10 for the user's reference only. They would not impact
 11 this requisition interface screen. So this data that
 12 the system will suggest to you is based on purchase
 13 history only. Again, I want to make sure you
 14 understand those UDF's, if the customer used them. As
 15 we made some suggestion, they were for reference during
 16 the procurement and the requisitioning process to help
 17 the user get extra information.
 18 Q How would they help the user do that?
 19 A Just by providing alternate sources. So you might
 20 want, let's say I want a computer, and I'm thinking
 21 that I want to buy this type of computer from your
 22 organization, but I want to know if I can buy this
 23 computer from another person's organization. That was
 24 a common implementation for the users just saying, Give
 25 me an idea of where else I can get this. So that was a

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1 002, Requisition Four. Line Item 3, Requisition 11,
 2 Line Item 2. So let's go back. And we can also, let's
 3 buy this item from Home Depot. The aluminum foil I'm
 4 not going to buy right now. And the two pens, I'll
 5 just leave those in the system. I didn't have to
 6 process everything that was sitting in this interface.
 7 I could save it for later because I might want to
 8 consolidate a lot of requests onto one purchase order
 9 and place that order with the supplier at one time
 10 instead of having little tiny shipments coming in.
 11 I'll put in P to process. And now the system is
 12 assigning items for me.
 13 So you will see that at the bottom of the screen
 14 on the right side you will see some red letters. So
 15 the system has placed that particular item in the hold
 16 file with that particular temporary requisition
 17 number. And the system has also created three
 18 additional requisitions for me. So for the Pendaflex,
 19 the clamshell, and the carpet strips, they are all on
 20 independent orders now.
 21 The next step I'm going to take is, I'm going to
 22 be a buyer. I'm going to go into Number 1, which is
 23 create a purchase order. So if you wanted to create a
 24 requisition and then have the requisition split in two
 25 multiple orders, you could do that. And then if I

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1 common use for those user-defined fields. But again, I
 2 want to make sure you understand, they didn't appear in
 3 this area. What appears in this area if you press the
 4 F6 key, this is the system going to our transaction
 5 database and saying, Oh, you have got some transactions
 6 here. Let me help you out. I'm going to show you the
 7 last one. Then you could say, Well, that works or it
 8 doesn't.
 9 Q Where in the process do the user-defined fields
 10 appear?
 11 A They would appear in various areas. If you were
 12 using, as you were creating a requisition, you could
 13 press the F3 key, see the item master file, and you
 14 could look at the user-defined fields there. You could
 15 use the user-defined fields. In a minute, when I get
 16 done with this screen, if I want to find an alternate
 17 source I'll show you how the buyer could use them.
 18 I'll do that in just a minute.
 19 Q Okay.
 20 A So let's pick a vendor. And if I can't remember
 21 the vendor's name, well, all I'm doing right now is I'm
 22 assigning -- I'm just randomly picking some suppliers.
 23 So you can see that the user could look up in the
 24 vendor master file. So for this particular screen. On
 25 the top left hand corner you have Requisition 4, line

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1 wanted to finish that. if you would, I could do that by
 2 Tabbing down to the bottom field. And in this case I'd
 3 like to see the content of what we called our hold
 4 file. Our hold file is the place where the system put
 5 those requisitions, those requisition line items that I
 6 just saved a minute ago. So you saw that I saved
 7 Requisition 1, 2, 3, and 4, and I assigned them to
 8 different suppliers. In this case, I actually selected
 9 Home Depot twice, and that's fine. The system wouldn't
 10 limit you from doing that. So let's select one. And
 11 the system moves the req number forward for you. And I
 12 could have auto numbering on if I chose, or I could go
 13 ahead and put in a PO number if I wanted to. A feature
 14 of the product, when it came shipped out of the box,
 15 you could key your own number in. There was auto
 16 numbering in the product.
 17 Q What is this screen we are looking at?
 18 A Again, it looks just like the screen you saw
 19 earlier, which is to create a purchase order. This was
 20 our order creation screen. We specifically didn't call
 21 it a purchase order on the top because you could use it
 22 for quotations, you could use it for blanket orders and
 23 releases. You could use this input screen for many
 24 things. Because I came in using the purchase order
 25 creation program, the system is getting ready for me to

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1 create a purchase order. But I can change that if I
2 would like, and the way I could do that is I've got the
3 cursor positioned in the order type field. And because
4 I came into this program using PO create, it assumes I
5 want to create a new order.

6 But I had other choices. If you look at the top
7 right-hand corner, you had these choices in this
8 version of the product. So if I didn't want to make,
9 create a PO from this and I wanted to do a quote,
10 request for quotation, I could do that by simply
11 changing the order type. And it was as easy as
12 changing it to Q, and I could come in and say that, I
13 want 200. I'll take my pricing off because I'm asking
14 this supplier for a bid. I don't want to show them
15 what I think they should be charging me. Let me just
16 send this order out. So I'll go ahead and create the
17 request. Now, the system does, in the message bar of
18 this version, it always said purchase order. And that
19 was normal behavior for it, even though we created a
20 request for quote. In a later version that was one of
21 the pips that came up saying, Why does it say purchase
22 order? But it did. It said, This is a request for
23 quote. And there were reports that were available.
24 Also, that Q function would affect the system's
25 reporting, so if I said to P.O. WRITER, Show me total

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1 if I had inventory responsibility in this module. Do I
2 have it? Let me look first before I place an order for
3 something. So if I was going to -- if the user had
4 requested my clamshell molding, and I put in KNO14 and
5 hit the enter key, the system says, We don't keep this
6 item in inventory. As a buyer I would go, Fine, that's
7 great. Let me go back, I'm going to go ahead and
8 create a purchase order for my clamshell molding. So
9 I'll go ahead and do that. So I'm coming in now and
10 I'll change this order number. And I will maybe say, I
11 want to ship via best way. I'll make myself the
12 buyer. Maybe I want more clamshell molding because I
13 checked inventory and I see that we don't have the
14 item, and I know we have a big project coming up.
15 Maybe the person that started this requisition doesn't
16 know what I know because I'm in purchasing and I'm
17 talking to a lot of people.

18 So when I place this order, I can go in and I can
19 choose to change anything on this order that I want.
20 So I might say, you know, I'm going to order a
21 thousand. A hundred feet isn't going to do it. I need
22 more than that. So the purchasing person was in
23 control when they used our product. The requisitioner
24 will get what they want, but the purchasing person
25 could change it. Or the purchasing person might say,

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1 dollars purchased in a period of time, it would only
2 show me orders. It wouldn't show me requests for
3 quotation, of course. So there was logic built around
4 our order types.

5 Now, people didn't always buy things that were
6 requested. You had a couple of choices. You could say
7 to a user, No, you can't have it. In which case you
8 could just cancel the requisition. But another feature
9 that people used in our product to try and service the
10 user, because again there's the I Want person and the
11 purchasing department is the servicing organization, is
12 to say, Do I have this in stock? So one of the things
13 that a person could do is select Number 12, and that
14 would access our inventory control module.

15 And there were several things you could do with
16 our inventory. You saw this yesterday in our user's
17 manual and I mentioned that these functions all related
18 specifically to the 1995 -- excuse me, 1993
19 functionality. So you could maintain an inventory
20 control master, do what we call issue transactions. So
21 if I had 50 wrenches in stock and somebody asked me for
22 five of them, I could issue them to the user. It would
23 reduce my on-hand inventory. But one of the main
24 things that people used frequently before they made a
25 buying decision is to say, Do we have it? And that is,

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1 Well, this is being charged to their cost center. I'm
2 going to leave that alone. But I'm going to come in
3 and I'm going to add another line item. And I'm going
4 to order the additional 900 feet for my cost center or
5 another person's cost center. Let's put a due date on
6 it. And the system would extend the cost. If I was
7 done, I could go ahead and save the record.

8 So again, the product was designed to provide
9 tremendous flexibility to our customers, and that's how
10 we encouraged them to use it, and to implement it, and
11 to get the maximum amount of value.

12 So if I can, I would just like to recap.
13 Requisitioning, the I Want people, can select from
14 catalog, can search through the catalog, don't have to,
15 can leave that field blank, can search across catalogs
16 for any item they want. They can change their mind,
17 mix dissimilar items in our system, send those over to
18 the purchasing people, people with responsibility for
19 sourcing. Those people can take a requisition and
20 create a purchase order. They can take a requisition,
21 split it, consolidate it. They can check to see if it
22 is available in inventory. If it is not, they can go
23 order it or not. They can order more if it met the
24 company's requirements. And we did a lot more than
25 that. But in summary, that's the primary, a lot of the

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1 primary functionality that was part of our product at
 2 that point in time.
 3 Q Thank you very much. Let me ask you a few more
 4 questions about the features of the P.O. WRITER PLUS
 5 Version 10.0 that were available to August 10th, 1993.
 6 When I ask you these questions, I'd like you to answer
 7 only about the functionality of P.O. WRITER PLUS that
 8 existed prior to August 10th, 1993.
 9 A All right.
 10 Q Did your customers have to be specially trained to
 11 use P.O. WRITER PLUS?
 12 A No. They did not.
 13 Q Was the P.O. WRITER PLUS system an electronic
 14 sourcing system?
 15 A Yes, it was an electronic sourcing system.
 16 Q Did it enable a user to locate and find items to
 17 be purchased?
 18 A Yes, it did.
 19 Q Did P.O. WRITER PLUS maintain product account logs
 20 on a database?
 21 A Yes, it did.
 22 Q Could we see Fielder Exhibit 8, please? This is a
 23 screenshot from your demo?
 24 A I did not demonstrate this, but I can if you would
 25 like me to. This is standard functionality in our

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1 sync up with our centralized system. So that's how our
 2 product worked. I believe the answer to that is yes,
 3 based on how our product worked at the time.
 4 Q Did P.O. WRITER PLUS maintain various types of
 5 information about items from those catalogs?
 6 A Yes, we did.
 7 Q Could the product catalogs in P.O. WRITER be
 8 easily updated with new items or new price
 9 information?
 10 A Yes, they could.
 11 Q What type of information regarding catalog items
 12 did the P.O. WRITER system store?
 13 A The types of items that we stored in our item
 14 master and also our catalog files were item number, two
 15 lines of description, unit of measure, price per unit.
 16 There was a pricing unit of measure. Commodity code.
 17 Catalog. There was a field called status. You could
 18 have an item be active or inactive. There were a
 19 couple of tax codes that by default would help the user
 20 understand how to make tax decisions. On the right
 21 side, those optional-for-user define fields if they
 22 chose to use them.
 23 Q We are looking at a screenshot of catalog
 24 display. And at the top we have item number. Are all
 25 the attributes beneath the item number attributes that

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1 product and that a method that the requisitioning
 2 people could use to update their catalog.
 3 Q What do you mean by update their catalog?
 4 A Again, there were various methods to get product
 5 information into our product. One of those methods was
 6 to put items into the item master file in P.O. WRITER.
 7 The screen that you are looking at would have been used
 8 by a requisitioner to take the data out of the central
 9 system and to bring it over and update their catalog
 10 file. So if I wanted to do that, I could demonstrate
 11 it if you would like --
 12 Q That's okay. That's what Item 1 and 2. Could you
 13 display catalogs?
 14 A Sure. If they just wanted to look and sort it
 15 various ways.
 16 Q Once you displayed the catalogs, could you select
 17 particular catalogs to search?
 18 A Yes.
 19 Q Did P.O. WRITER PLUS maintain product catalogs on
 20 multiple databases?
 21 A It did. Again, our implementation of our product
 22 was a centralized item master file, a catalog file, and
 23 if you had remote requisitioning you would have
 24 multiple catalog files that the user at their
 25 discretion could choose to put data in themselves or to

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1 were associated with the item number?
 2 A This is how it was shipped right out of the box.
 3 Q To the lower right we see the user-defined
 4 fields. That was at the user's decision to configure
 5 as they wished?
 6 A Completely.
 7 Q Were these attributes that we see here all
 8 predetermined by P.O. WRITER with the exception of the
 9 user-defined fields?
 10 A Yes. If you bought our product, our vanilla
 11 product the way it is shipped out of the box was with
 12 the labels and the fields that you are seeing on this
 13 screen. So the default labels for user-defined, for
 14 example, were just that, user-defined, and then
 15 numbered for this file.
 16 Q Could P.O. WRITER PLUS store additional
 17 descriptive text that would allow for a more detailed
 18 item description?
 19 A Yes, absolutely. We had that extended description
 20 window that I showed you that would allow a user to put
 21 in up to 400 additional characters to describe a single
 22 item in the catalog.
 23 Q So you could have up to 400 characters of text?
 24 A Yes.
 25 Q Was there a limit to the number of items that

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1 could be associated with a particular product catalog?
 2 A No, there was not.
 3 Q Could we see Fielder 11, please? So we are
 4 seeing here a depiction of the Home Depot catalog from
 5 the demonstration you gave?
 6 A Right.
 7 Q You could have any number of items associated with
 8 that catalog?
 9 A That's correct. That catalog ID was part of our
 10 item master. And again, our design concept was that it
 11 gave users flexibility so you could assign an item to a
 12 catalog. And there was no limit to the number that you
 13 could, number of items you could put in our file other
 14 than, you know, how much computer space you had
 15 available.
 16 Q Could a user select a particular catalog and
 17 search for desired items within that catalog?
 18 A Repeat that.
 19 Q Could a user select a particular catalog and
 20 search for desired items within that catalog?
 21 A Yes.
 22 Q Could we see Fielder 12? Is this the screen that
 23 allowed a user to do that?
 24 A That's correct, yes.
 25 Q Did the P.O. WRITER system provide the ability to

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1 A Yes, it was.
 2 Q And did the P.O. WRITER system provide the ability
 3 to build a requisition with selected matching items
 4 from a catalog search?
 5 A That's correct. That was the primary function of
 6 the requisitioning module.
 7 Q Could we see Fielder 16, please, Bill? Is that
 8 what this screen depicts?
 9 A That's correct.
 10 Q Did the P.O. WRITER system provide the ability to
 11 generate a purchase order from a requisition?
 12 A Yes, it did.
 13 Q Can we see Fielder 17, please? Is this the user
 14 interface that would be used to begin the process of
 15 generating a purchase order?
 16 A That's correct.
 17 Q Did the P.O. WRITER PLUS system provide the
 18 ability to generate multiple purchase orders to
 19 different vendors from a single requisition?
 20 A Yes, it did.
 21 Q Is that also possible, displayed here on the
 22 screen?
 23 A Yes, if they selected Number 3, that would be the
 24 way to begin the process to do that.
 25 Q Okay. Did the P.O. WRITER system allow users to

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1 search multiple catalogs?
 2 A It would allow you to search multiple catalogs.
 3 As I demonstrated this morning, if you left the catalog
 4 ID field blank as you saw, then you could search across
 5 multiple catalogs.
 6 Q Could we see Fielder 14, please? So this is a
 7 search across all catalogs; is that what we are looking
 8 at here?
 9 A It is all catalogs, that's correct. In this
 10 particular case, the search criteria happens to be by
 11 description starting with the letter C.
 12 Q So in Version 10 of the P.O. WRITER system the
 13 user had the ability to select a single catalog to
 14 search?
 15 A Yes.
 16 Q Or the user could select all catalogs to search?
 17 A That's correct.
 18 Q Could a user view a list of search results from
 19 the catalog search?
 20 A Yes, they could.
 21 Q Let's see Fielder 15, please. Is that what this
 22 screen depicts?
 23 A Yes, it does.
 24 Q Was a selected item placed on a requisition by
 25 P.O. WRITER?

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1 convert a selected matching item from one vendor to an
 2 item from a different vendor?
 3 A Select a matching item from one vendor to another
 4 vendor. They could change the item. They could use
 5 the item master user-defined fields to provide a visual
 6 reference. And if they did that, then we would
 7 facilitate that process. But the system did not
 8 automatically switch items for you using the
 9 user-defined fields in any way.
 10 Q So that was a user-initiated and a user-controlled
 11 process?
 12 A Right. It was absolutely possible, but it was the
 13 user process override.
 14 Q The user-defined fields would afford the user the
 15 display of alternative vendors to whom you could switch
 16 for a given item?
 17 A That's correct.
 18 Q That was subject to the customer decision to
 19 configure their system in that way to afford that
 20 functionality if they chose?
 21 A That's right. They would make that decision
 22 completely.
 23 Q And you personally taught customers how to do that
 24 in 1993, as we saw in the video?
 25 A That's correct.

15 (Pages 2146 to 2149)

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1 Q Did the P.O. WRITER system provide the ability to
 2 determine the inventory status of a selected matching
 3 item?
 4 A Yes, our system would do that.
 5 Q Let's see Fielder 21, please. Is that what this
 6 displays?
 7 A Yes, it is. This happens to be an item number, HK
 8 17, which happens to exist, in this particular example
 9 for cases, are located in Bin Number 1.
 10 Q Ms. Fielder, did you or your husband or anyone at
 11 PurchasingNet ever apply for any patents on the P.O.
 12 WRITER system?
 13 A No, we did not.
 14 Q Why not?
 15 A Basically, what we were doing at this point in
 16 time, people were doing on minis and mainframes. And
 17 our competitors we talked about yesterday, particularly
 18 that had the REALITY products, they were definitely
 19 leading us. So we weren't inventing new and unique
 20 things. We were, you know, just growing our business
 21 and responding to client requests and keeping up with
 22 the competition.
 23 Q Are you familiar with the company Fisher
 24 Scientific?
 25 A Yes, I am.

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1 why we have a lot of the stuff that we have. And I
 2 recall this very, very well because they bought the
 3 product from us and the next summer we were flipping
 4 through a magazine that we advertised in and respected,
 5 that we have talked about earlier, Purchasing Magazine,
 6 which is a magazine we read regularly. And we saw this
 7 advertisement of this company, Fisher, announcing a
 8 brand new PC-based purchasing system. And I was just
 9 floored because, you know, it dawned on me at that
 10 point that it was highly probable that we might have
 11 had at least some influence on perhaps their design.
 12 But for sure, I had a new competitor that had bought
 13 our product and that was definitely not something that
 14 I was very happy about.
 15 Q Did the features of PurchasePro seem at all
 16 familiar to you?
 17 A Yes. This seemed very familiar. That's my
 18 handwriting on the top of the page. The very first
 19 thing I did was pick up the telephone and try to figure
 20 out how to learn more about this product. And I got a
 21 telephone number to call for the branch in Springfield,
 22 which is the branch I did contact, and I got their
 23 sales literature. And I think we have it here in this
 24 Court as an exhibit. Some of the screens looked very
 25 familiar to our product. So again, you know, it was

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1 Q In what context?
 2 A Fisher Scientific bought our P.O. WRITER PLUS
 3 product early on. They bought our product in 1985.
 4 And they paid for our product and signed a license
 5 agreement in 1986. And I sent them the password to
 6 open up the system. And that was the last contact that
 7 I had with them. I did try and reach out to them to
 8 see if they had any problems. I never heard back from
 9 them. And I thought, you know, this is really unusual
 10 because the product is good. But people call. They
 11 have questions. And when you call a customer to say,
 12 Thanks for buying the product and how can I help you,
 13 usually they will call you back. But we had no contact
 14 at all with the people after I sent them the password
 15 to our product.
 16 Q Did Fisher also receive a manual for the version
 17 of the P.O. WRITER that they licensed?
 18 A Yes, absolutely they received a manual like
 19 everyone else.
 20 Q Bill, could you please bring up Defendant's
 21 Exhibit 765? Did you see a copy of this document, Ms.
 22 Fielder, at or about the time of this release?
 23 A The document that you looking at, I did provide to
 24 SAP's attorneys. And I found this document in my
 25 husband's file. He is an enormous pack rat, which is

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1 just -- all I can tell you is at the time there were
 2 four of us employed by the company. And when you are a
 3 little company and you are trying to make things
 4 happen, you are doing it on a shoestring because we
 5 built our company with our own money, primarily.
 6 Especially at that time. And to see a behemoth, big,
 7 big, strong, powerful company come out with a product
 8 like this, it was very scary for us. And I definitely
 9 reacted, certainly more emotionally than my husband,
 10 but that's usually the case, and got their literature,
 11 looked through it, and couldn't do really anything
 12 about it other than just keep an eye on them and hope
 13 they didn't succeed.
 14 Q Ms. Fielder, thank you for coming to court today
 15 to explain the P.O. WRITER PLUS system. Has your
 16 involvement in this case taken time away from your
 17 business?
 18 A It has, yes.
 19 Q And how many times have you met with SAP's lawyers
 20 getting ready for testifying here today?
 21 A The attorneys for SAP came to visit us at our
 22 office in Red Bank bank, New Jersey on two occasions,
 23 and in the first occasion spent a couple of hours just
 24 trying to educate us on what was going on in the
 25 patents and asking us questions about what we have done

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1 for a living and how good we were with maintaining our
 2 records and what we might have available. And after
 3 that, then they came back and met with us another time.
 4 And I guess I didn't think it was going to go to
 5 trial. I just thought a couple of huge companies were
 6 just going to slug it out and work it out on their
 7 own. So I'm kind of surprised to be here.
 8 Q When were you first contacted by SAP's attorneys?
 9 A It was July of last year.
 10 Q Is PurchasingNet being compensated for the time
 11 that you spent meeting with SAP's lawyers and answering
 12 our questions about how P.O. WRITER worked?
 13 A I am. I did insist that if they were going to
 14 take our time, because as a company we have 30 people.
 15 and our people are billable. If I'm out consulting
 16 with companies, you know, I charge them \$250 an hour to
 17 be there, as do a lot of our employees. So before I
 18 was willing to do too much, I did say that they would
 19 have to pay for our time, the company's time, to put
 20 any materials together and to root through basements
 21 and documents. And my primary motivator is I didn't
 22 want these people to whip us all over the place and
 23 waste our time. SAP is a multi-billion-dollar
 24 company. I don't think they think anything about
 25 having us chase our tail in circles. So I figured if I

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1 Q Good morning Ms. Fielder. Do you still have
 2 the notebooks that were prepared for you by counsel,
 3 the exhibit notebooks?
 4 A I do.
 5 Q Both of them?
 6 A Yes, I do.
 7 Q Thank you. I would like to start with
 8 defendant's Exhibit No. 765 first, which is Tab 13. It
 9 is the last thing counsel asked you about with respect
 10 to this Fisher's PurchasePro. Now, that's something
 11 you said that you came across approximately the time of
 12 October 1996?
 13 A This was in Purchasing Magazine in the,
 14 happens to be the October 23rd edition of Purchasing
 15 Magazine.
 16 Q 1996. Just try -- you came across this
 17 document at or about October of 1996?
 18 A Yes. That's correct.
 19 Q And you provided it to SAP's counsel?
 20 A Yes, I did.
 21 Q And this document, this Fisher PurchasePro,
 22 you indicated that you had believed that Fisher
 23 Scientific bought some version of the P.O. WRITER in
 24 1985, 1986, correct?
 25 A That's correct. And actually recently I -- I

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1 made them pay for our time, that that would definitely
 2 keep them from wasting our time.
 3 Q Are you or your company being compensated for the
 4 time that you are spending testifying in Court for
 5 these last couple days?
 6 A No, I'm not.
 7 Q Did you have any relationship with SAP before
 8 being asked to testify in this case?
 9 A No. They are a competitor, actually.
 10 Q Do you have any financial interest in the outcome
 11 of this litigation?
 12 A No, I don't.
 13 MR. DAY: Thank you very much.
 14 THE COURT: All right. We will take a break
 15 now. And this will be close to the ten minutes. I'll
 16 going to push kind of hard today. I'm trying to get
 17 Ms. Fielder back to New Jersey instead of having to
 18 come back here on Monday. So we are going to try to
 19 move more quickly today. All right. Ten minutes.
 20 (Recess from 11:00 a.m. to 11:10 p.m.)
 21 THE COURT: Bring them in. All right.
 22 Cross.
 23 MR. ROBERTSON: Thank you, Your Honor.
 24 CROSS EXAMINATION
 25 BY MR. ROBERTSON:

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1 mentioned yesterday that we maintained records for our
 2 business on a contact management system. But, before
 3 contact management systems were popular, it was what we
 4 used to do, is what we used to keep exactly the same
 5 information you saw in that report. We would put the
 6 company names, phone numbers, then all the details of
 7 any conversation or any transaction or even when we
 8 tried to reach out to someone. So I did happen to find
 9 that recently. So I do know specifically that we sold
 10 that product to them in November of '85. They paid us
 11 in the following year. And then subsequent to that
 12 this ad came out. But, I remember this very, very
 13 well.
 14 Q We will get through this a lot quicker if you
 15 try and focus on the question I asked. If you have any
 16 follow-ups, I will be sure to ask them.
 17 So my question was, you believe you sold this
 18 product in '96. Did we see any documentation that
 19 would reflect that? Yes or no?
 20 A Yes, I did.
 21 Q Did you introduce any document with respect
 22 to that in your direct examination?
 23 A I just found it recently.
 24 Q The question is, did you introduce any
 25 documentation in your direct examination?

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1 A I didn't have the card at the time. So I
 2 wasn't able to produce it. But, I don't know the law.
 3 But, I could have if I needed to.
 4 Q You didn't tell us what version of P.O.
 5 WRITER?
 6 A At that time it was one of the very first
 7 versions of Version 3.0.
 8 Q Okay. You indicated in your direct
 9 examination that Version 6.0 had requisitioning,
 10 correct?
 11 A That's correct.
 12 Q Doesn't this advertisement in 1996 indicate
 13 that this PurchasePro has requisitions for purchase
 14 orders?
 15 A Exactly. That was really my point when I was
 16 speaking earlier is we were a small company, we were
 17 not leading the charge. When I was asked whether or
 18 not I would apply for a patent, my statement was there
 19 was really nothing interesting for us to patent because
 20 we were really doing what companies that were larger
 21 were doing. And this company was doing all that at
 22 that period of time.
 23 Q So this company was, had an advanced product
 24 beyond even Version 3.0 that you sold in 1985, '86, it
 25 could do requisitioning and your Version 3.0 could not?

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1 A Right. This particular company --
 2 THE COURT: You've answered the question.
 3 BY MR. ROBERTSON: Thank you, Your Honor.
 4 BY MR. ROBERTSON:
 5 Q This also references a product known as
 6 StockPro and FastBack. Are you familiar with those
 7 ma'am?
 8 A Only by name. I'm not familiar with the
 9 exact functionality of those products.
 10 Q It indicates here that PurchasePro would work
 11 with StockPro and FastBack systems. Those are
 12 preexisting systems that Fisher already had that could
 13 do requisitions from purchase orders even prior to
 14 1986. Were you aware of that?
 15 A Only as it relates to -- this is the first
 16 time I became aware of Fisher as a company that was a
 17 competitor in our marketplace. So this is in 1986.
 18 And at that point my only interaction with them is
 19 having sold the Fisher Scientific Company in Pittsburgh
 20 our P.O. WRITER PLUS purchasing module.
 21 Q Perhaps they didn't like the P.O. WRITER PLUS
 22 because they already had a product that functioned much
 23 better than that and had advanced technology? Isn't
 24 that reasonable?
 25 A I can't speak to that. I don't know how they

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1 felt.
 2 Q Fair enough. Well, at least reflected in
 3 this document, Defendant's 765, they appeared to have a
 4 product that was far more advanced than the
 5 capabilities you had in 1986 with Version 3.0, correct?
 6 A This was a, to my knowledge, the new product
 7 announcement. And it was something I had never seen
 8 before. The first time I saw it was in this magazine.
 9 That's all, really all I can speak to.
 10 Q You can speak to the fact that it discloses
 11 features that P.O. WRITER didn't have?
 12 THE COURT: We have been through this.
 13 MR. ROBERTSON: Thank you, Your Honor.
 14 BY MR. ROBERTSON:
 15 Q Were you aware that Fisher gave away this
 16 product to customers in order to make purchases from
 17 Fisher stock? Yes or no. If you are not aware, that's
 18 fine.
 19 A I don't know if they took money for their
 20 product or not. I don't have any knowledge of their
 21 financial records.
 22 Q Could we please see one of the
 23 demonstratives? We might have it, I think it was the
 24 second slide. This was a demonstrative used during
 25 your direct testimony. Do you recall that?

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1 A (Witness nodding.)
 2 Q In this demonstrative you were trying to
 3 demonstrate when it was your understanding that certain
 4 versions of P.O. WRITER came out, correct?
 5 A Right.
 6 Q Was it always called P.O. WRITER PLUS even
 7 when it was Version 12.0?
 8 A The product was announced as P.O. WRITER
 9 PLUS, excuse me. P.O. WRITER in Version 1.0. And we
 10 changed the name in Version 4.0, which is '87, to P.O.
 11 WRITER PLUS. I remember that.
 12 Q And we didn't see any documentation with
 13 respect to the features or capabilities of Version 1.0,
 14 2.0, 3.0, 4.0 or 5.0, did we?
 15 A No. We did not.
 16 Q With respect to Version 6.0, we didn't see
 17 any documentation regarding that either, did we. in
 18 your direct examination?
 19 A We did see some supporting information. Are
 20 you talking about specifically a user's manual?
 21 Q Any kind of manual or guide that would tell
 22 me exactly how I could understand the features and
 23 functionalities of Version 6.0?
 24 A I believe we did have some information about
 25 Version 6.0.

18 (Pages 2158 to 2161)

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1 Q Is that Tab 1, Defendant's Exhibit 667, that
2 brochure you mentioned?

3 A Actually, if you want to turn to 2627,
4 there's some information about prior versions of our
5 product.

6 Q 2627, can you tell me what you're
7 referencing?

8 A Right now I'm on Tab 15. And right now I'm
9 looking at 2625, and 2625 starts to talk about our
10 Version 4.0. And then we summarize 5.0, 6.0, 7.0, 8.0
11 in that particular document.

12 Q That was this client support program you
13 talked about?

14 A Yes. We discussed this yesterday. It was
15 the tool that we used to help us sell our client's
16 support program or maintenance program. What we're
17 looking at on 2625 are some of the major features that
18 were in that particular version. And then, because we
19 flipped through, and you'll see different versions.

20 Q That's a high level document, right, ma'am?
21 That's not a detailed description of those features and
22 functionalities? Isn't that fair to say?

23 A The purpose of this document was to highlight
24 for prospects the major things that we were doing in
25 that major version that year. It was not designed to

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1 A What tab is that?

2 Q Tab 2.

3 A 757. Okay. Yes. Right.

4 Q It is this Buyer's Guide To Software For
5 Purchasing?

6 A Right. Got it.

7 Q Okay. American Tech is the company that was
8 known at that point?

9 A Yes.

10 Q When did it change its name? I just want to
11 get oriented here.

12 A It changed its name in 2000. Specifically,
13 it was February 14th of 2000.

14 Q Now, this was a paid advertisement that
15 American Tech purchased to get into this book, isn't
16 it, this purchasing magazine?

17 A I don't recall if we paid for this ad.

18 Because there is a Circle No. at the bottom, I would
19 imagine. But, I do know that it was our practice to
20 also include at least a quarter of a page display ad in
21 this particular magazine at that time. So I don't know
22 if we bought a display ad if you got this ad. It
23 wasn't my job. My husband and partner was the person
24 that handled the marketing placement. But, just
25 because you could circle it, we may have paid for this

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1 be a user's manual. It was a selling tool.

2 Q So the answer to my question would be yes?

3 A Would you repeat the question?

4 Q It is a high level document, not meant to
5 provide details of functionality?

6 A Yes. That's correct.

7 Q With respect to Defendant's Exhibit 667,
8 which was Tab 1 in your book, you had indicated that it
9 could search fields and search commodity codes in 1989.
10 But, you didn't provide any document that supported
11 that statement, did you?

12 A I'm sorry. Which page?

13 Q First tab, Defendant's Exhibit No. 667?

14 A I'm sorry. Yes.

15 Q And you didn't refer us to any documentation
16 with respect to your statements with respect to that
17 version of the software Version 6.0 that you could
18 search on fields and commodity codes in 1989 in your
19 direct examination; is that correct?

20 A I did not provide that in the direct
21 examination. And, again, this is just a high level
22 sales brochure.

23 Q You were asked some questions about
24 Defendant's Exhibit 757 which is at Tab 2 in your book,
25 ma'am.

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1 add.

2 Q And American Tech, they were responsible for
3 the content that was in here?

4 A That's correct. We were.

5 Q Now, you were asked some questions about
6 searching catalogs with respect to Version 10.0. Let
7 me be clear. We have been talking about all through
8 today and part of yesterday about Version 10.0; is that
9 correct?

10 A That's correct. That's what I demonstrated
11 was DOS Version 10.0.

12 Q If we could go to Fielder 2, the slide of the
13 various versions. You stop here at 10.0 in the '93
14 time frame I think was your testimony. June of 1993, I
15 believe that's when you date the source code?

16 A Yes. It was done before June of '93. It is
17 on the diskette provided to you.

18 Q This was a Version 11.0?

19 A There was a Version 11.0 thereafter.

20 Q Version 12.0?

21 A Correct.

22 Q And what version are we up to now?

23 A We stopped the DOS product at Version 12.0.
24 And we started our Windows product as an loop which is
25 normal when you're putting out new technology. I

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1 believe we would run our business the way -- we
2 continued our DOS product because we had a lot of
3 customers on it. Then we started building our Windows
4 product. And we started to build our Windows product,
5 oh, probably started around Version 11.0. So we could
6 start to build out that product. And then we had four
7 versions of our Windows version before we retired that
8 for our new product line.

9 Q So you did put Version 12.0 on the chart,
10 correct?

11 A I'm sorry?

12 Q Did you not put Version 12.0 on the chart?

13 A This wasn't relevant to me.

14 Q It wasn't relevant and you're not relying on
15 anything with respect to Version 12.0, correct?

16 A The.

17 Q Can you answer that question yes or no,
18 ma'am? You're not relying on anything from Version
19 12.0 because it is not relevant in your view?

20 A No. I didn't include Version 12.0. I didn't
21 see that it was relevant.

22 Q This demo you represented was the Version
23 10.0 executable source code. I understand in response
24 to counsel's questions that you indicated that some of
25 the executable was recently compiled, correct?

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1 did open it and we did examine it and we did prove to
2 ourselves that all of the screens that were in that
3 particular library, with the exception of one help
4 file, were from 1993. So the -- I guess the only way I
5 can really explain that library file is that if you had
6 a binder, and this binder was considered your library,
7 if you opened the binder, and you open a page, the way
8 the MBP product worked, their mask editor worked is the
9 system, even if you made no change, the system would.
10 when you close your library, the system would record
11 the date and time. So we did provide a mask library to
12 the SAP counsel and explained to them where the files
13 came from, and explained to them then, when we opened
14 it, that any file we would be using during the
15 demonstration was a 1993 vintage file.

16 So there were a couple of files on the
17 diskette, we made them perfectly aware of what they
18 were. We shared them with these people and that's
19 exactly what they are. But, I will testify, and I have
20 testified, that the source code and the screens and the
21 programs that we used to perform our demonstration
22 today, to do the tasks that I demonstrated, were from
23 1993.

24 MR. ROBERTSON: Your Honor, I forgot my
25 question. Could I have that read back, please?

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1 A That's right. Some of it was recently
2 compiled.

3 Q And then you were discussing a number of the
4 dates that were associated with some of the data files
5 and some of the executable files. That would appear
6 not to reflect that they come from a period of time
7 prior to June 1993, correct? You explained how that
8 occurred during the course of yesterday's examination?

9 A Exactly.

10 Q I understood you to say that, for example,
11 when some of the source code was read and executed, it
12 would automatically update a file that's associated
13 with this diskette that you provided? So that's why
14 we're getting dates in 2005 and 2006, correct?

15 A If you were to compile a source code, as I
16 mentioned, then the system will put a date and time on
17 it when we compile it. If you were to add data to a
18 master file, or create a purchase order in our system,
19 we'll update what we call our tables, the dot.dat
20 tables and the dot.key tables, and there is a file that
21 we provided that was from 1995; this is a library file.
22 And that library file is a screen file that was in our
23 code for the requisitioning software. So, in our
24 archives, there was one file and we made, we put it on
25 the diskette so they knew it was from 1995. But, we

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1 THE COURT: No. You can't have it read back.
2 Come on. This is peripheral. Let's get to what
3 matters here. And, Ms. Fielder, believe me, if you
4 ever want to go home, just answer the questions as
5 simply as possible. If there is a need for greater
6 explanation, your lawyer will take care of that when he
7 gets up on redirect. Okay. Let's get through this.
8 BY MR. ROBERTSON:

9 Q Ms. Fielder, it is true that SAP attorneys
10 assisted you with this demonstration?

11 A No. I have done this demonstration in my
12 sleep practically. I have done this demonstration for
13 years.

14 Q Did they assist you in configuring and
15 compiling the source code for purposes of recreating
16 this demonstration?

17 A No, they did not.

18 Q You obtained you said a purchase, was it a
19 purchase order or requisition module from a customer?

20 A We obtained the purchasing module from a
21 customer here in Richmond.

22 Q When did you do that?

23 A That was after August of last year. I don't
24 remember the exact date.

25 Q Sometime in August of 2005?

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1 A After August.

2 Q And that had been out of your control and
3 custody for, what, ten years or more?

4 A That's correct.

5 Q And you integrated that back into the system;
6 is that right?

7 A That's correct, sir.

8 Q And when that was in possession of your
9 customer, you really don't know what that customer may
10 or may not have done with it?

11 A That customer happened to be your law firm.
12 The reason I didn't -- you're still a customer and
13 this is very uncomfortable for me because I don't want
14 to lose a good customer. They have been a customer for
15 years. But, it's the actual code. And it was the only
16 place we could find it.

17 Q Well, I'm sure I will talk to my purchasing
18 agent and make sure that you don't lose a valued
19 customer.

20 A Jim Winder gave you the diskettes.

21 THE COURT: We don't really need to hear all
22 this. The basic question was, had it been out of your
23 custody and control, you don't know what they did with
24 it in those ten years. And the answer is I don't. So
25 that's where we are. Let's ask another question.

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1 A That is a text file that would be updated
2 just -- that's not source code. That's not a library.
3 It is a simple text file the system would update
4 through use.

5 Q There are six files dated 1998, correct?

6 A And, again, when we installed our customer's
7 data, this is coming from the customer data. That has
8 nothing to do with our compiling or anything on that.
9 That has nothing to do with our source code, our
10 libraries.

11 Q There is a library file here that is dated,
12 is there not, in 1995, correct?

13 A That's what I was referring to earlier.

14 Q And the library file displays on the screen
15 doesn't it?

16 A It is where you you store your screen shapes
17 and images, that's correct. But, it is static. It is
18 not source code. It doesn't change the way that the
19 product performs in any way.

20 Q And isn't there in fact one file in here,
21 ma'am, that contains programs from at least one file
22 that contains programs from Version 12.0? Can we open
23 that? And that has a copyright on it of 1995, correct?

24 A This has nothing to do with what we've
25 demonstrated today. I don't even know how that got on

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1 BY MR. ROBERTSON:

2 Q You understand that version that Hunton &
3 Williams didn't have the number of modules you
4 demonstrated here?

5 A Right. We were only able to receive the
6 purchasing model from your company.

7 Q And this CD we talked about that you used
8 today for Version 10.0, that has the list of files we
9 have been talking about that contained the program
10 number, correct?

11 A I'm sorry. Could you repeat that?

12 Q You have been talking about these dates with
13 respect to these various files that are associated with
14 this software that you demonstrated today, right?

15 A That's on the CD that we are talking about.

16 Q Let's take a look at that if we can. Now,
17 here we have a number of these files that you have been
18 talking about. If you scroll down, we can see that
19 there is some that are in this 2005 time frame we were
20 talking about and also 2006. You mentioned you thought
21 you had a data file from 1995 and there is some files
22 here that are dated 1992 and '93, correct?

23 A Correct.

24 Q Isn't it true, ma'am, that also there is a
25 file in here that's dated 1997?

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1 your diskette. That's might be because you have been a
2 customers for years. That was nothing we demonstrated.

3 Q It is all part of this file? It is all part
4 of the files you provided to us with this demonstration
5 software, correct?

6 A I would have to do a comparison to the
7 diskette. There would be no reason for us to have that
8 file on there.

9 Q Of course. Okay. Did I understand you to
10 say that you would attend this trade show, and help me
11 with that again, it was the NAPM, was it?

12 A It stands for National Association of
13 Purchasing Management. And recently they changed their
14 name to the ISCM, Institute of Supply Chain Management.

15 Q You would do this on a yearly basis; is that
16 right?

17 A They have an annual trade show that coincides
18 with their international conference. Yes, we have
19 attended.

20 Q Did I understand you to say on occasions you
21 would go out and train people as to the features and
22 functionality of the various versions you had?

23 A That's correct.

24 Q And in response to counsel's question you
25 were asked whether or not you could do demonstrations

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1 at this trade show and show how the software performed?
 2 A Right. Our people would do demonstrations at
 3 the trade show. It was a regular practice of us and
 4 everyone else.

5 Q In these training versions sometimes at these
 6 trade shows, wouldn't it be fair to say the software
 7 wasn't, I don't know, working properly or fully
 8 developed or maybe had to fudge the functionality a
 9 little bit to make the presentations? That would
 10 happen, wouldn't it?

11 A I think you're mixing training with trade
 12 shows and they are two different things. When we did
 13 training, we were training our customers on a released
 14 version of our product. When we were attending the
 15 National Association of Purchasing Management show,
 16 that was in April or May, and we were demonstrating new
 17 features and functions.

18 So the product that we have been talking
 19 about was, in fact, demonstrated in the spring of 1993
 20 and it may have had some bugs in it. We were working
 21 on the documentation. We were finishing up the
 22 product. We didn't start commercially shipping the
 23 product -- my first shipping record is in early June.

24 Q And so would you fudge these demonstrations
 25 at trade shows?

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1 A No. Actually if you play the whole
 2 videotape, in the beginning of the videotape I have the
 3 people go around the room, their customers, they are
 4 introducing themselves. Some people are talking about
 5 whether they bought our product. And I was able to
 6 confirm that exact date by one woman in particular who
 7 said that she was with Valley Savings, which is one of
 8 our customers out there. she said I bought the product
 9 five months ago. And when I was I go trying to date
 10 that video, I went back to our license agreement and I
 11 confirm that was the Orange County training class on
 12 the 17th of February 1993.

13 Q Ms. Fielder, my question simply was that
 14 videotape, however you had it, wherever you had it, you
 15 produced it to counsel and they produced it to us?

16 A Yes. I produced it to them and them to you.
 17 Yes. I assume they gave it to you.

18 Q Thank you. We have a little clip we'd like
 19 to play about these demonstration now.

20 (Video played.)

21 (Video stopped.)

22 BY MR. ROBERTSON:

23 Q The person standing at the podium, that was
 24 your husband and partner. Mr. McEneny?

25 A That's right. That's Tim McEneny.

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1 A Would we fudge them? What do you mean by
 2 fudge them?

3 Q Show, demonstrate it to someone and represent
 4 it had some capabilities that it didn't?

5 A No, we did not. We showed what we had
 6 available at that time. We knew what the bugs were.
 7 We stayed away from the bugs. But, we didn't fudge.

8 Q These videos we saw today, that was the 1993
 9 time frame?

10 A I'm sorry?

11 Q The demonstration you did?

12 A Absolutely. That was a February 1993. That
 13 was Version 9.0 of our software.

14 Q And you produced a number of these videos,
 15 correct?

16 A No, we did not. We did produce a number.
 17 Occasionally we would videotape the courses and use
 18 them to share them with our distributors just to bring
 19 them up to speed on certain features and functions or
 20 to train the employees. They were really internal
 21 documents, they weren't selling documents or things we
 22 sold or gave away.

23 Q What I am suggesting, during the course of
 24 this lawsuit, you produced these videos to counsel for
 25 SAP and they turned them over to us?

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1 Q That was you also in the video laughing at
 2 the comment that this was going to be a demonstration?

3 A I didn't understand what I said. I'd have to
 4 listen to --

5 Q Wizard of Oz, that's where Toto pulls back
 6 the curtain, pay no attention to the man behind the
 7 curtain. This is one of the smoke and mirrors
 8 demonstrations you were going to put on?

9 A Apparently so. That's not the way I remember
 10 them. I remember them being very high stress and
 11 people asking about features and functions and you
 12 demonstrate the product which we were going to have to
 13 develop in a couple of weeks, which we did.

14 Q Now, you've been here in town since at least
 15 the beginning of the week; is that right?

16 A I came out on Monday afternoon, correct.

17 Q You have been preparing during that time for
 18 your testimony yesterday and today?

19 A I have been preparing on and off and still
 20 running the company with my computer in the hotel room.

21 Q Your husband has been with you all of that
 22 time?

23 A Most of the time, yes.

24 Q And he's been here, actually to Court, on
 25 several days, you're aware of that, correct, taking

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1 notes?

2 A Yes.

3 Q Okay. In preparation for your testimony here
4 today you have been talking to your husband about what
5 you were going to testify about?

6 A I've been talking to him about what it's like
7 here, what kind of questions you ask. I've never been
8 in court before. I've never testified before. And I
9 had absolutely no idea what to expect. And he was
10 trying to help me mentally prepare.

11 Q Sure. So he shared the content of the notes
12 to you, the questions I was asking, the questions
13 counsel was asking, the other witnesses that had come
14 forward?

15 A Generally, the tone of your questions. He
16 would say that you might try and get me going really
17 quickly, and just to take my time and pace myself, and
18 that was more what he was trying to do. There were
19 some questions that he mentioned.

20 Q Some substantive issues that had been going
21 on here besides just the tone of my questions?

22 A He was, yes, he was trying to help me just
23 get mentally prepared and he was trying to help me
24 understand what I might be facing.

25 Q Counsel for SAP didn't tell that you the

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1 searched, too. You did not have to add a catalog. It
2 was not a required field in our system.

3 Q I understand. But, if you ran a search
4 catalog, it was one or all, right?

5 A That's correct. Yes.

6 Q And I also understood you to say on direct
7 examination that P.O. WRITER PLUS did not have the
8 capability to search external inventory; is that right?

9 A That's right. It does not. It doesn't today
10 either.

11 Q Thank you. And you were asked some questions
12 about requisitioning consolidation splitting?

13 A (Witness nodding.)

14 Q Specifically, I think you were asked about
15 Defendant's Exhibit 200. You might want to get that.
16 I will see if I can identify -- it is Tab 4 in your
17 book, ma'am.

18 A Okay.

19 Q Specifically, I believe it is at Bates page
20 that ends 3002.

21 A Okay.

22 Q Could we have that, Mike? 3002. If you
23 could, it's the first paragraph or the second paragraph
24 underneath that table. Mr. Day asked some questions
25 about this. And you read the sentence of this

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1 Court had an order that excluded witnesses from
2 learning or hearing about what other witnesses were
3 testifying about?

4 A I knew I couldn't come to court. I was aware
5 of that.

6 Q Okay. Did you get around that by having your
7 husband come and take notes and tell you exactly what
8 witnesses were saying?

9 A That was not our intention. My intention was
10 to have him help me get mentally ready because this is
11 a pretty overwhelming experience.

12 Q You were asked some questions about this
13 catalog search functionality. Do you recall that? Let
14 me just understand, your testimony was the P.O. WRITER
15 PLUS could search a single catalog or search all the
16 catalogs; is that right? Can you answer that yes or
17 no?

18 A I'm sorry.

19 Q P.O. WRITER PLUS could search a single
20 catalog in your view or all catalogs?

21 A That's how we viewed it, yes.

22 Q Okay. It didn't search less than all the
23 catalogs, search one or all?

24 A Well, if there were no catalogs, if items in
25 the file had no catalog ID, then those items could be

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1 paragraph. It says, "We can now select a vendor for
2 each item or we can have the system do it for us." He
3 didn't read the last sentence where it says, "The
4 system will select the vendor based on the last
5 purchase order for a given item." You see that?

6 A I do believe I explained that in quite a bit
7 of detail this morning. It is not limited to the PO.
8 It is limited to a transaction in the database which
9 could include a contract, for example.

10 Q And so what it will do is automatically come
11 up and populate that with just the last vendor that was
12 on the purchase order for a given item. Isn't that
13 your testimony?

14 A My testimony is that it will allow, if there
15 is history, it will suggest the supplier associated
16 with the last transaction. Some of it, if that's a
17 purchase order, yes. If it is a contractor, that would
18 be true, too.

19 Q The user didn't select that. The system
20 would automatically populate it?

21 A If you press the F6 key, the system would try
22 and help you.

23 Q Do you have Defendant's Exhibit 320 there?
24 If not, I think I can get it for you. It's actually
25 Tab 6 of your document. Specifically, at Bates No.

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1 that ends 4199.

2 This is talking about splitting and
3 consolidating requisitions. And maybe if you want to
4 look at the screen, ma'am. Specifically, we're in the
5 box here. First paragraph in the box. It reads, "All
6 requisitions are displayed in requisition number order.
7 You may enter a vendor number for each item displayed
8 or you can let the system assign vendor numbers. It
9 will use the vendor from the last purchase order for
10 the item. The system will not assign a vendor number
11 for items without history or, it is an asterisk. in
12 quotes there, items?"

13 A That's right. That confirms what I just
14 suggested. If there is no history for an item, there
15 would be nothing the system could use to help you when
16 you press the F6 key. And since asterisk items are not
17 maintained in our system, there is nothing for it to
18 reference to. So that's confirming what I just said.

19 Q And so in that instance, if there is a
20 purchase order, the system will assign, if not, nothing
21 will happen?

22 A That's right. The system will try and help
23 you.

24 Q You talked a little bit about these
25 user-defined fields. Do you recall that?

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1 A Yes.

2 Q And there was no catalog ID anywhere on that
3 requisition screen, was there?

4 A At that point, certainly the requisition
5 header is not needed.

6 Q So there is no item there in that requisition
7 associated with the source on that screen?

8 A On that screen there is a field where they
9 can simply suggest a supplier if they wanted to. So
10 you're correct.

11 Q And that was all part of the flexibility you
12 said you wanted to build into the system?

13 A That was our design to allow people to
14 suggest and allow purchasing to service the needs of
15 the user.

16 Q And when you searched, you did that commodity
17 search, as you called it, for something called JOIN.
18 Do you recall?

19 A Yes.

20 Q There was no vendor on the screen when you
21 brought that up?

22 A I believe when I did that search, it was a
23 description, and the screen that came up does not by
24 default display any detailed information about the
25 item. But, if they were to use subsequent control

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1 A That's right.

2 Q Isn't it fair to say, even if a user defines
3 these fields, that doesn't change the way the program
4 works in any way?

5 A That's right.

6 Q Those user-defined fields were for display
7 purposes only?

8 A That's correct. And I made sure that's
9 understood.

10 Q And since it doesn't affect the program, even
11 if the user defined one of the fields with a vendor
12 name or an alternate vendor name, that doesn't mean the
13 program is changed in any way because it doesn't change
14 if you put those things in, right?

15 A That's right. This was a convenience for the
16 user. If they chose to use the system that way, it
17 would provide that information for them. As I said
18 earlier this morning, it is important to understand the
19 system did not try and, you know, make another
20 suggestion for you. It was there for your reference as
21 a user.

22 Q In your demonstration this morning, at one
23 point you pressed the F7 key to select an item and you
24 were directed to a requisition header screen. Do you
25 recall that?

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1 screens, they could use either an extended description
2 or they could look at information that I showed you.
3 So are you saying specifically showing the catalog ID
4 field on that screen? I want to make sure I understand
5 right so I get this right.

6 Q Yeah. When you did the search for JOIN,
7 there was no vendor in the information on the search
8 result screen that came up?

9 A On that exact search result screen, no, there
10 was not.

11 Q And at one point you searched for items and
12 you had, it was, I believe, in the purchase order, it
13 was from a requisition you were converting a purchase
14 order. You had Summit as the vendor for the first
15 three. You recall that?

16 A Summit was the vendor for the first three?
17 I'm sorry. One more time.

18 Q I believe when you were doing the
19 requisition, at one point you had Summit as the vendor
20 for the first three line items. Do you recall that at
21 all?

22 A I'm sorry. I don't.

23 Q That's okay. It's true you could purchase
24 various modules that didn't have all this full
25 functionality, isn't that right, might not have the

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1 catalog module, might not buy the purchase order
2 module?
3 A In order to make our product work, everyone
4 had to license at least the purchasing module. And
5 then you would add, as I showed you on the price sheet
6 the other day, you could add additional modules. And
7 those could be added at the user's choice when they
8 might want to be ready to implement them.
9 Q So the answer to my question would be then --
10 A Yes. They would buy other modules.
11 Q Or they didn't have to buy them all, correct?
12 A They did not have to buy them all, correct.
13 Q If I search for an item, and it didn't have a
14 vendor, the thing I could do to get a vendor was to
15 manually enter that vendor number one of two ways, just
16 if I recalled it or go to the vendor list, correct?
17 A You could search it or if you recalled the
18 code you could put the code in.
19 Q But, it did not come up initially in your
20 demonstration with the vendor; is that right?
21 A That's correct.
22 MR. ROBERTSON: Thank you. I have no further
23 questions.
24 THE COURT: Brief rebuttal.
25 MR. DAY: No redirect.

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1 that he has so we can consider those notes in
2 determining whether or not prejudice has occurred with
3 respect to ePlus. And if Mr. McEneny has destroyed
4 those notes, then I think I would renew my motion with
5 respect to Ms. Fielder's testimony.
6 THE COURT: The motion will be denied. And,
7 for the record, this witness's explanation of what went
8 on, as far as I'm concerned, is an appropriate one.
9 They didn't have a full understanding of what the
10 Court's order meant.
11 But, in any event, I see absolutely no
12 prejudice. As far as I'm concerned, this has been the
13 most forthcoming witness we have had here. She talked
14 too much. There's nothing to indicate to me that there
15 was anything she said that you all weren't prepared to
16 deal with.
17 MR. ROBERTSON: Thank you, Your Honor.
18 (In open court.)
19 JESUS RAMOS
20 called as a witness by and on behalf of the Defendant,
21 having been first duly sworn by the Clerk, was examined
22 and testified as follows:
23 MR. DAY: May I proceed, Your Honor?
24 THE COURT: Go ahead.
25 BY MR. DAY:

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1 THE COURT: Thank you. Let's get on to your
2 next witness.
3 MR. DAY: SAP calls Jesus Ramos.
4 THE COURT: You may stand down, Ms. Fielder.
5 Thank you very much.
6 (Witness stood aside.)
7 MR. ROBERTSON: At some point I would like to
8 make a motion to the Court. If we could do that before
9 we recess --
10 THE COURT: We can do that right now. Come
11 up here. I anticipated you might.
12 (At bench.)
13 THE COURT: Go ahead.
14 MR. ROBERTSON: I would like to make a motion
15 to strike Ms. Fielder's testimony in its entirety for
16 having not complied with the Court's ruling with
17 respect to, under Federal Rule of evidence 615, Your
18 Honor. The order was clear Mr. McEneny, her husband,
19 sat in this courtroom for three days and took notes
20 with respect to various witnesses. And then he shared
21 the content and substance of those notes with her. I
22 think striking her testimony is only appropriate and
23 fair.
24 If the Court is not inclined to do that, I
25 would ask Mr. McEneny be forced to produce any notes

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1 Q Good afternoon, Mr. Ramos.
2 A Good afternoon.
3 Q Would you please introduce yourself to the
4 jury?
5 A My name is Jesus Ramos.
6 Q And for whom do you work, sir?
7 A I work for Techniual Services Associates,
8 Inc.
9 Q And what does TSA do?
10 A We are a software company. We produce
11 purchasing software.
12 Q And what is your job with TSA?
13 A I'm the president of TSA.
14 Q How long have you worked with TSA?
15 A I have worked for TSA since 1985.
16 Q And over that time period, since 1985 until
17 today, what have been your responsibilities with TSA?
18 A I have been made the vice-president for
19 research and development.
20 Q Did you help start the company?
21 A Yes, I did.
22 Q Before you cofounded TSA, did you have a
23 background in computer programming?
24 A Yes. I had a bachelor's degree in computer
25 science and a masters degree as well.